ABSTRACT OF THE PROCEEDINGS

OF THE

Council of the Governor-General of India

ASSEMBLED FOR THE PURPOSE OF MAKING

LAWS AND REGULATIONS.

1871.

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XIV-

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ASSEMBLED FOR THE PURPOSE OF MAKING

LAWS AND REGULATIONS.

1871.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 21 & 25 Vic., cap. 67.

The Council met at Government House on Friday, the 6th January 1871.

PRESENT:

His Excellency the Viceroy and Governor General of India, K. P., G. M. S. I., *presiding.*

The Hon'ble John Strachey.

The Hon'ble Sir Richard Temple, K. C. S. I.

The Hon'ble J. Fitzjames Stephen, Q. C.

The Hon'ble B. H. Ellis.

Major-General the Hon'ble H. W. Norman, C. B.

Colonel the Hon'ble R. Strachey.

The Hon'ble Francis Steuart Chapman.

The Hon'ble J. R. Bullen Smith.

The Hon'ble F. R. Cockerell.

The Hon'ble J. F. D. Inglis.

The Hon'ble D. Cowie.

The Hon'ble W. Robinson, C. S. I.

PLEADERS, MUKHTÁRS AND REVENUE AGENTS BILL.

The Hon'ble MR. STEPHEN moved for leave to introduce a Bill to consolidate and amend the law relating to Pleaders, Mukhtárs and Revenue Agents. He said that the Bill was intended to consolidate and amend the law on the subject to which it referred; and it would, if enacted, replace the eight different Acts and Regulations in which that law was now contained. It was in fact one of the consolidation Bills of which so many had recently been prepared in execution of the scheme of consolidating the existing laws, and this Bill, he was happy to say, was one of the last.

The opportunity had been taken to introduce certain changes in the law relating to the remuneration of pleaders, mukhtárs and revenue agents. He was authorized to state that the sections dealing with this subject were framed on the recommendation and had the approval of the Hon'ble Sir Walter Morgan, the Chief Justice of the High Court of the North-Western Provinces, who probably had as great experience on the subject in question as any other

authority in India. The provisions which it was proposed to adopt were substantially the same as those which were contained in the Act of Parliament passed in the course of last summer for amending the law relating to the remuneration of Attorneys and Solicitors, 33 & 34 Vic., cap. 28. Some adaptations had been made both in the arrangement and language of the clauses taken from that Statute, as well as in the substance of the provisions themselves. He need not enter into the details of what was proposed, but the general object of the sections in question was to secure to pleaders and others an easy remedy for the recovery of their fees, and on the other hand to secure to clients a remedy against anything in the nature of oppression or extortion. The course which had been taken to secure these objects was as follows. Under the terms of the existing law, pleaders were able to make any contracts they pleased with their clients, and such contracts could not only be made, but might be enforced by a regular suit. However, when a regular suit was brought, it had been held that it was not open to the Court to look into the character of the bargain itself: it was treated like any other bargain; and if the pleader chose to take advantage of his knowledge of the law and legal experience and the need of his services by his client, to compel him to enter into an extortionate arrangement, he could do so. He need hardly say that the difficulty of permitting lawyers in general, and pleaders and attornies in particular, to enter into any contracts they pleased with persons who were necessarily ignorant of the particular subject-matter of the contract, had been felt so strongly in England, that it was not, until very lately, competent to an attorney to make a bargain with his client for anything beyond just professional allowances, which were subject to taxation by an officer of the Court. For reasons which were obvious in themselves, and to which MR. STEPHEN need not particularly refer, as they were all summed up in famous judgments of the English Courts of Justice, in *Swinfen* v. *Lord Chelmsford* and *Kennedy* v. *Brown*, it was the law of England that a barrister could not make any bargain at all for his fees for advocacy in litigation, and whether he was paid or not he had no legal remedy against his client. That state of the law could hardly be introduced into this country: it implied a state of things that did not exist in British India. But while the law of India allowed attornies and pleaders to make any bargains that they thought fit, it in point of fact caused to clients very great hardship, and he was inclined to believe, from such information as he had received, that a large proportion of the litigation of this country was due to the cause that pleaders and mukhtárs, some of whom were most unscrupulous, gave themselves an interest in the matter in dispute, made extortionate bargains with their clients, and forced them on by false hopes of ultimate success to appeal from Court to Court. Now that was a state of things which certainly seemed to be open to

great objection, and the measure proposed in the present Bill, which rested on the high authority he had mentioned, was that, although pleaders and mukhtárs should be allowed to contract as heretofore, their contracts should be subject entirely to the supervision of the Court, and that they should not be enforced in the ordinary way by regular suit, but that they should be enforced by order of the Court, the Court having power, if it thought proper in the interests of justice, to quash or modify the original contract in any manner it thought fit.

Another clause of the Bill provided that pleaders should not be permitted to stipulate for payment only in the event of success.

With regard to the last provision MR. STEPHEN confessed that he entertained some doubts, and should be glad to hear what could be said on the point by persons of local experience. On the one hand, if you permitted a pleader to enter into a contract on the terms of no cure no pay, you gave him such a strong interest in the suit that, if he was a man capable of such practices, it was by no means impossible that he might suggest every kind of improper defence and iniquitous plea, and might even go so far as to suborn witnesses for the purpose of carrying out these defences, in the same manner as if he were himself the litigant. That was a strong argument on one side. On the other hand, MR. STEPHEN had heard it said that the people in some parts of the country did not dislike this arrangement. That was foreign to English experience. The reason why such an arrangement was not disliked in India was that the pleaders were described as using all manner of means to obtain clients; and when they obtained them the suitor said—"I know very little about you, and I may never see you again, and moreover, I do not in the least believe that you will take any particular care about my suit unless you have an interest in it." That was the other side of the question. He (MR. STEPHEN) did not himself know how the matter stood; it was one on which he could only form an opinion from what he had heard. The Bill would of course be submitted to the Local Governments for the expression of their opinions, and he hoped they would express them upon this as well as other points. But as to the main principle, that a bargain between lawyer and client ought not to be left to the ordinary principle of free trade, but that it ought to be made subject to the strictest supervision by competent authority, which would see that superior knowledge was not abused, he felt no doubt.

Section forty-five of the Bill remedied an existing defect. This section provided that if any advocate, attorney, or mukhtár had been removed or suspended by the High Court, and if he practised after such removal or during such suspension, he would be liable to a fine. The object of that was as follows. The High Courts were necessarily invested with power to remove or suspend advocates

and pleaders in this country; it must and ought to be so. But if a man chose to disregard the authority of that Court, and chose to plead and act in other Courts contrary to such order, he ought to be punished. Of course the High Court would not hear him, but if he went to the Courts all over the large provinces under the supervision of the High Court, the probability was that it might escape notice for some time that he was under suspension, and the effect of that would be that he might practise notwithstanding the order of the Court.

MR. STEPHEN thought any one who had anything to do with the administration of justice would be aware that there was hardly any kind of person who could do more good than the really honest and conscientious advocate: on the other hand, no one who could do greater harm, and defeat the ends of justice more effectually, than the dishonest and unscrupulous advocate. He spoke as a barrister having strong professional feelings, and he would just as much stand up to the utmost for the advantages and privileges of the respectable portion of the profession, as he would advocate the punishment of those guilty of professional misconduct. That was the reason why this clause was introduced.

There was nothing more in the Bill requiring notice, except that, at the recommendation of the Government of Bengal, it proposed to restore to all mukhtárs the privilege of appearing, pleading and acting in Criminal Courts, which they formerly enjoyed under Act XX of 1865, and to empower mukhtárs heretofore admitted and enrolled in Lower Bengal as Revenue Agents (section seven) to appear, plead and act in suits in Munsifs' Courts under Bengal Act VIII of 1869 *(to amend the procedure in suits between landlord and tenant)*.

The Motion was put and agreed to.

LOCAL PUBLIC WORKS BILL.

Colonel the Hon'ble R. STRACHEY introduced the Bill to facilitate the construction of works of public utility from Local and Municipal Funds, and moved that it be referred to a Select Committee with instructions to report in a month. He had explained, when he had asked for leave to introduce the Bill in March last, what were the reasons which led to its introduction. But as some time had elapsed since, he thought it would be better if he re-stated shortly what the general causes were. The intention of the Bill was sufficiently explained by the title. The particular object of the Bill was to facilitate the making of advances by the Government for the purpose of carrying out works of public utility. Of course there was no difficulty in the Government making such advances as far as it desired to do so. But there was a difficulty in getting sufficient security for the recovery of such advances

when they were made. The Government were informed that none of the existing minor municipal bodies nor the administrators of the other Local Funds were capable of making a legal assignment on the future revenues of the Municipal or Local Funds, and therefore the Government, in making advances, could obtain no security from such bodies for the repayment of such advances. He excluded those municipalities that were empowered by legislative enactments to incur such debts, but he believed the only bodies of the sort were to be found in the presidency towns. Possibly there might be some others in Madras, but in the other parts of India, so far as he was informed, they did not exist. That being the case, in order to make advances given by the Government for such purposes thoroughly safe, it became necessary to authorize the persons who administered these Funds to enter into agreements with the Government, binding themselves to repay the advances with interest in subsequent years. The first object of the Bill, therefore, was to authorize the repayment of such advances from the incomes of the Funds. At the same time that this was done, it became also desirable to limit the power of the persons who administered these Funds to borrow money within a certain amount. Those were the two essential things with which this Bill purported to deal.

The particular form which was given to the Bill might be shortly stated. The Bill commenced by stating that the persons who administered Municipal Funds and who desired advances should make application for such advances. Thus, the initiative was entirely thrown on the persons who administered the Funds, and the Government had no power of interfering unless on the motion of those persons: therefore there could be no possible undue interference on the part of the Government in these matters in consequence of anything contained in this Bill.

Next, it was provided that it should rest entirely with the Local Governments to determine what advances were to be made in particular cases, subject to certain rules of a general nature to be framed by the Government of India. It had been considered that the Government of India should frame these rules, because this Government was the supreme financial authority in the country, and it would eventually fall on the Government of India to make good any loss which might arise on any transaction in which the advances with interest were not repaid. The chief points to which these rules would refer were, the declaration of the Municipal or Local Funds on account of which such advances might be made, the nature of the works which might be undertaken, and the provisions under which advances were to be made and repaid.

The Bill further provided for the recovery of the advances in case of default being made by the persons who administered the Funds on account of which the advance was made. As the Bill stood, a preference was to be given to Government, in obtaining repayment of advances, over all other claims. To this some objection had been made. This, however, was rather a question of detail, and it might be considered in Committee whether any limitation to such a preference might properly be made.

Another point which was dealt with in the Bill, as he had mentioned before, was the limitation of the total amount which any municipal or other local body should be able to borrow under the provisions of the Bill. It was quite certain that some such limitation was necessary, and whether the particular amount proposed in the Bill was correct or not, it would probably be admitted that the sum which should be allowed to be borrowed in the contemplated way should bear some proportion to the total income which was at the disposal of the borrowing power.

It was also provided that, after the passing of the Act, no loans should be incurred by any such body as those referred to in the Act except under the provisions of the Act. Facts had come to his notice in the course of last year which satisfied him that such a condition was absolutely necessary. He had become aware of some of the loan-transactions of the municipal bodies in Upper India, which satisfied him that bodies of that kind should not be allowed to go into the market to borrow as they pleased. He need not mention the particular places to which he referred, but the transaction was of a very singular description.

That was all that he desired to say as to the Bill as it had been placed before the Council; but the further consideration which he had given to the subject, after he had seen the opinions given by the local authorities, induced him to propose one or two modifications. The first of these had been suggested by one or two of the communications received from the Local Governments on the Bill, and had also been mentioned to him as desirable by the Hon'ble Mr. Robinson. It was that the Local Governments should have power to authorize loans for these objects from other persons, similar to that which they possessed in giving advances of Government money. It might readily happen that the sum of money the Government had at its disposal for the purpose of making such advances might be exhausted, and if the Government purse was the only source from which advances could be got, some useful works might not be carried out. It might also happen that private persons might be ready to lend money for works in which they were interested even on better terms than the

Government itself. At all events, if the same restrictions were put on the authorizing of loans from private parties which were put on advances from Government, it seemed to him that there could be no possible objection to the Local Governments authorizing loans from other sources than from the Government purse. This addition to the Bill he should be prepared to propose to the Committee if the Bill was referred.

The other point was rather a change of form. The eleventh head of the rules which the Governor General in Council was empowered to make under section five, referred to the amount which should from time to time be applied from the public revenues for the purpose of making these advances. On further consideration, COLONEL STRACHEY thought it would be better to put this in a more direct way into the Bill, and to introduce a separate section to declare distinctly that the Governor General in Council should from time to time determine the sum of money which should be placed at the disposal of the Local Governments, and should in like manner regulate the total amount which might be outstanding at any one time on account of these advances. Practically, the way in which the measure would work financially would be, that the Government of India would place at the disposal of the Local Governments a certain fixed sum of money which they might apply to these objects, and when that sum became exhausted no further advances could be made until by the repayment of former advances fresh money was obtained. This was the manner in which the loan-operations for public works were conducted in England, and it was the intention of the Government that the transactions which took place under this Bill should in a general way, and as far as the circumstances of the country would permit, be conducted in a similar manner to that under which they were carried on under the English law.

The Hon'ble SIR. RICHARD TEMPLE said that, although he cordially approved of the general principle of the Bill, it was obviously in some respects a financial Bill, and he thought that in its present form it certainly ought to be referred to the Financial Department of the Government of India, so that no clause should be introduced in it which would in any respect be objectionable financially. He hoped, too, that he would be placed on the Select Committee. These two things being done, he dared say that the Bill would be ultimately framed in such a form that he would have no objection to offer when it came finally to be passed in the Council.

Colonel the Hon'ble R. STRACHEY remarked that when leave was given to introduce the Bill, it was placed in the Hon'ble Sir Richard Temple's hands, and therefore, virtually, the Bill was brought to the knowledge of the Financial

Department. Further, the Bill had not been brought in till it was approved by the Government of India, and if Sir Richard Temple was put on the Committee, he (COLONEL STRACHEY) did not see what advantage would be got by referring the Bill to the Financial Department.

The Motion was put and agreed to.

CATTLE TRESPASS BILL.

The Hon'ble MR. COCKERELL presented the report of the Select Committee on the Bill to consolidate the law relating to Cattle Trespass.

CIVIL COURTS (BENGAL) BILL.

The Hon'ble MR. COCKERELL presented the report of the Select Committee on the Bill to consolidate and amend the law relating to the District and Subordinate Civil Courts in Bengal.

The following Select Committee was named :—

On the Bill to facilitate the construction of works of public utility from Local and Municipal Funds—The Hon'ble Mr. Strachey, the Hon'ble Sir R. Temple, the Hon'ble Messrs. Stephen, Chapman, Cockerell, Inglis and Robinson and the Mover.

The Council adjourned to Friday, the 13th January 1871.

CALCUTTA,
The 6th January 1871.

WHITLEY STOKES,
Secy. to the Govt. of India.

Office Supdt. Govt. Printing.—No. 6256 L. C.—11-1-71.—200.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Government House on Friday, the 13th January 1871.

PRESENT:

His Excellency the Viceroy and Governor General of India, K. P., G. M. S. I., *presiding.*

The Hon'ble John Strachey.

The Hon'ble Sir Richard Temple, K. C. S. I.

The Hon'ble J. Fitzjames Stephen, Q. C.

The Hon'ble B. H. Ellis.

Major General the Hon'ble H. W. Norman, C. B.

Colonel the Hon'ble R. Strachey.

The Hon'ble F. S. Chapman.

The Hon'ble J. R. Bullen Smith.

The Hon'ble F. R. Cockerell.

The Hon'ble J. F. D. Inglis.

The Hon'ble D. Cowie.

The Hon'ble W. Robinson, C. S. I.

CATTLE TRESPASS BILL.

The Hon'ble MR. COCKERELL moved that the report of the Select Committee on the Bill to consolidate the law relating to Cattle Trespass be taken into consideration. He said that the amendments proposed by the Select Committee related almost entirely to matters of detail, and were chiefly in the direction of giving a greater latitude to the action of the local authorities in the working of the Act by relaxing the somewhat minute restrictions of the existing law in regard to such matters as the authority under which, and the places where, pounds may be established; the persons to whom the fact of impounded cattle remaining unclaimed should be reported; the manner in which such cattle should be disposed of; the determination of the place at which, and the persons by whom, the sale of cattle should be held, and the mode of transmitting to the Magistrate the proceeds of such sale; and, lastly, the persons by whom trespassing cattle may be conveyed to, or taken out of, a pound.

The grounds on which the amended provisions of the Bill in regard to these matters rested were so obvious as to need no further comment. He (MR. COCKERELL) passed on therefore to notice the other proposed changes.

As the law now stood, police officers were under an obligation to aid in the seizure of trespassing cattle whenever they might be required by the seizer to render such assistance. The want of some restriction in this matter had been found to lead to great abuse in the indiscriminate employment of the police in the conveyance of seized cattle to the pound. The intention of the law obviously was simply to prevent a breach of the peace resulting from resistance to attempted seizures, or attempts to rescue cattle which had been seized, whilst they were being conveyed to the pound. In the amended Bill (section 10) compliance with requisitions for the aid of the police was limited to the above contingency.

As the postponement of the sale of impounded cattle, the owner of which had brought a complaint before the Magistrate alleging the illegality of their seizure, and on that account declined to pay the fines and expenses incurred, frequently caused the feeding charges resulting from the protracted detention of the cattle to exceed the amount recoverable by their sale, it had been thought expedient to provide (section 15) that the cattle might be released on the deposit, pending the decision of the Magistrate on the owner's complaint, of the amount due on account of the fine and other charges.

In the event of the owner refusing or neglecting to make the required deposit, the cattle would be dealt with as if they were unclaimed.

The appropriation of surplus fines and unclaimed proceeds of the sale of impounded cattle was, by the present law, limited to expenditure on the construction of roads and bridges and works of a *like* nature. This restriction had been found to work inconveniently, and rested upon no intelligible principle: it was now proposed to allow the application of funds derived from this source to any purpose of public utility.

The word "forcibly," which occurred in the corresponding provision of the existing law, had been omitted from the second clause of section 24 of the amended Bill. It had been represented that the release of seized cattle was more frequently effected by stratagem than by force, and it was thought expedient that any form of rescue should be made a criminal offence. At the same time, to prevent this alteration of the law working harshly in any case, it was provided that, in order to constitute the offence of "rescue," there must be some

person in charge of the seized cattle, doing some overt act in furtherance of the object of the seizure.

Section 27 of the amended Bill, which provided for the punishment of a pound-keeper convicted of dereliction of duty with fine which might amount to fifty rupees, was new. There was no corresponding provision in the existing law. Elsewhere in the Bill the pound-keeper was declared to be a public servant within the meaning of the Penal Code, and was thus made punishable under the general law for any graver offence in connection with his office; but it was thought desirable that there should be some means of awarding punishment, other than dismissal, for such acts or omissions as were specified in this section, and especially for neglect to take proper care of cattle committed to his charge. At present, the only remedy that the owner had in such cases was a suit against the pound-keeper in the Civil Court, a remedy which was, for obvious reasons, insufficient and unsuited to the circumstances of the case.

There were other minor amendments which called for no special remarks.

It had been suggested that the provisions of section 26, which made punishable the negligently suffering damage to be caused by the trespass of pigs, should be extended so as to include the case of other trespassing cattle.

The Committee, after a careful consideration of the matter, had not adopted this proposal. Section 26 was thought to involve a wrong principle, the operation of which should not be extended. There were peculiar difficulties in the way of seizing and conveying pigs to a pound, and it was probably this consideration which led to the original enactment of the special provision of the law in regard to them, and the omission to include them in the list of animals in respect of which a pound-fine was leviable. The injury sustained in such cases was a civil injury, properly referrible, for the purpose of obtaining redress, to the Civil Court and not to the Magistrate; for the act or omission by which such injury was caused was quite compatible with the exercise of good faith, and ought not, therefore, to be dealt with as a criminal offence. It might be said that the fine inflicted in such cases was to be regarded simply as an award of damages; but in that case the Civil Court was the fittest place for the adjudication of the questions which had to be considered in determining such award.

The Motion was put and agreed to.

COLONEL the Hon'ble R. STRACHEY moved that, in section 11, after the word "Canals" in lines 2, 7 and 9, the word "drainage-works" be inserted.

Also that, in section 20, for the words "as doing damage to land or any crop or produce thereon," the words "under this Act" be substituted.

The Motions were put and agreed to.

The Hon'ble MR. COCKERELL then moved that the Bill as amended be passed.

The Motion was put and agreed to.

PRISONS' ACT EXTENSION (COORG) BILL.

The Hon'ble MR. CHAPMAN moved that the Bill to extend the Prisons' Act, 1870, to Coorg, be taken into consideration.

The Motion was put and agreed to.

The Hon'ble MR. CHAPMAN also moved that, in the last line, for 'January' the word 'February' be substituted.

The Motion was put and agreed to.

The Hon'ble MR. CHAPMAN then moved that the Bill as amended be passed.

The Motion was put and agreed to.

CUSTOMS DUTIES BILL.

The Hon'ble SIR RICHARD TEMPLE introduced the Bill to amend the law relating to Customs Duties, and moved that it be referred to a Select Committee with instructions to report in two months. He said that this Bill was in the main a consolidation measure, but the opportunity had been taken to introduce one or two amendments in procedure. As the Statement of Objects and Reasons was before the Council, he would not take up the time of the Council in explaining what the amendments were. He trusted that the Bill would be considered in Committee and passed in time for its introduction in the Budget.

The Motion was put and agreed to.

PAPER CURRENCY BILL.

The Hon'ble SIR RICHARD TEMPLE also presented the report of the Select Committee on the Bill to consolidate and amend the law relating to the Government Paper Currency. He said:—"My Lord,—Although it is not altogether usual, when presenting the report of a Select Committee to the Council, to make any general observations, yet as it is desirable that full time should be given to the Council to consider all that may be said in regard to the Bill, I beg your Lordship's permission to state what I have to say upon this occasion. This Bill, as the Council knows, was originally a consolidation measure, but ultimately, as it passed through Committee, a clause has been inserted, with the sanction of the Executive Government, to enable us to issue Notes of lower denominations than have been hitherto adopted. It is this point to which I wish particu-

larly to advert on this occasion. My hon'ble friends Mr. Bullen Smith and Mr. Cowie will recollect that, on the last occasion when the Bill was before the Council, they made certain very appropriate observations, and I told them then that these very points had been for a long time under the consideration of the Government of India in the Financial Department, and that before the Bill passed through Committee, I hoped to be in a position to state what the Government of India have to say upon this important question. I now beg your Lordship's permission (for the satisfaction of my hon'ble friends and this Council generally, and the public who may be concerned in the matter) to redeem that promise. I will divide my observations into two parts—first, the reasons why we propose to have five-rupee Notes, and secondly, the measures we are resolved to adopt in the executive department for facilitating the cashing of these Notes in particular, and of the Currency Notes in general.

Now, as regards the five-rupee Notes, it will be in the recollection of the Council that this is a matter which has excited a good deal of discussion, and upon which authorities have very much differed. This is by no means the first time that the question has been brought before this Council. I will give the history of the measure, if I may be allowed to recapitulate the proposals that have from time to time been made. First, Mr. Wilson proposed to have five-rupee Notes; afterwards, in Mr. Laing's time, the Council of that day were of opinion that Notes should not be issued of a lower denomination than twenty rupees. After that, when the Committee's report was brought before the Government of India, the then Government determined to have ten-rupee Notes as the lowest denomination. When this decision of the Government reached the Secretary of State, Sir Charles Wood (who as the Council know was not only Secretary of State, but one of the greatest living authorities on matters of currency) remarked that it would have been much better to have accepted Mr. Wilson's proposal for the five-rupee Note. However, the Government of India adhered to its decision to have ten-rupee Notes as the lowest denomination, and at last Sir Charles Wood, when reviewing this decision, did not think fit to interfere with the determination of the Government of India, but said that he would allow ten-rupee Notes to stand as the limit, but regretted the decision regarding the exclusion of five-rupee Notes. That, then, was the history of the transaction at the time; and from that time to this, as the Council knows, there has been no Note of a lower denomination than ten rupees.

In order that the Council may be in possession of the views of such eminent authorities as Mr. Wilson and Sir C. Wood, I will read a few sentences which explain their opinions. Mr. Wilson stated in 1859:—

"In the first instance I would propose to begin with Notes of the denomination of 5, 10, 20, 50, 100, and 500 Rupees. The effect of these deno-

minations would be that remittances would be made in the larger Notes, and exchanged for daily use, not in coin, as would be the case if there existed Notes only of a high denomination, but into Notes of the lower denominations. All payments below five Rupees, and fractional payments above, would be made in silver and copper."

Afterwards, in a speech before this very Council, he developed his opinions in this form—

"Then, Sir, we have next to consider what ought to be the denomination of the Notes so issued. This is a subject upon which much difference exists, both in opinion and in practice, and it will be obvious that it can only be properly determined by a reference to the character of the transactions of a nation, whether, as a rule, they represent very small and minute sums, or whether they represent generally larger sums. In England, the lowest denomination of Notes is £5; in Scotland and in Ireland it is £1; in France it is 100 francs; in the United States it is one dollar or about 4*s.* 2*d.*; in some of the North American Colonies one-dollar Notes freely circulate; throughout Germany the Thaler Note, of value little more than 3*s.*, is the most common circulation; in Mauritius the circulation consists of Notes of five Rupees or 10*s.* and upwards; in Ceylon the Notes are of 10*s.* and upwards; formerly they were of 5*s.*, and by a report on the subject which I recently received from the able and accomplished Governor of that Colony, Sir Henry Ward, it appears that the suppression of Notes of that denomination had been attended with inconvenience to the planters and others of which complaint had been made."

That was Mr. Wilson's opinion.

Sir Charles Wood, in the course of the communications which I have already alluded to, remarked as follows:—

"In regard to the amount for which the Notes are to be issued, I am of opinion that raising the lowest denomination from five to ten Rupees is unadvisable; it is not with a view to deriving profit from the issue of Notes, or that they contemplate the withdrawal from India of the silver which is in the country, either in the shape of coin or otherwise, that the Government have introduced this measure. Their main object is to substitute an economical and convenient currency as far as the people will adopt it for the more expensive, and, from its bulk, inconvenient, circulation of silver.

"The sums required for payment of wages, or for the ordinary purchases made by the mass of the population in India, must, in each instance, be infinitely smaller than the sums required for similar purposes in this country.

In England, however, the value of the lowest coin above silver coin for change, and the denomination of the lowest Note in Scotland and Ireland, is a pound. Your proposal is to have no Note in India of a lower denomination than ten Rupees, which is equal to a pound.

"The same reasons which fixed the amount for this country would, when applied to the circumstances of India, clearly point out that the minimum denomination of Note beyond small coin should be lower than what is found necessary in this country, where the ordinary amount of small payments must necessarily be larger than in India.

"Unless Notes are issued for sums small enough to be used in making payments in the ordinary transactions, the silver coin will not be displaced except for the small number of payments of higher amounts, and the benefit of the introduction of Paper Currency will be rendered comparatively trifling.

"I am of opinion, therefore, that the lowest denomination of Notes should be, as proposed by Mr. Wilson, of five Rupees. It is my desire that the Bill should in this respect be restored to its original form."

Then, when the Government of India were not able to adopt this view and decided that a ten-rupee Note should be the lowest denomination of the Notes, Sir Charles Wood finally remarked:—

"In my financial despatch, dated the 2nd May last, No. 75, I conveyed to you generally the opinions of Her Majesty's Government on the subject of the Bill to provide for a Paper Currency, and I stated that, with the exceptions of the limitation of the denomination of the Notes to Rs. ten and upwards, which I considered should be lowered to Rs. five, and of the stipulation that the silver coin for which Notes might be demanded must be of full weight, thus excluding coins legally current, I had no alteration to suggest in the words of the Act, as the alterations in practice which I recommended were not inconsistent with its provisions.

"I regret to find that, as regards the first of those objections, the lowest denomination of Note has been fixed by the Act at Rs. ten. For the reasons stated in my despatch above referred to, it was my desire that the lowest denomination of Note should be Rs. five, and I see no reason to doubt that experience will prove that it would be expedient to use Notes of that amount."

Thus the Council will observe that Sir Charles Wood then expressed the confident hope that experience would prove that it would be expedient to

issue Notes of five Rupees. Now, as regards the experience which has been since had, I contend that it shows that Notes of the lowest denomination are the most popular. Next to Notes of the lowest denomination in popularity there come the Notes of the highest denomination. It is the medium Notes, or those which come between the highest and lowest denominations, that prove a comparative failure. The greatest increase however is in Notes of the lowest denomination. For instance; we had in 1864, 436,000 of the ten and twenty-rupee Notes in circulation. We have now close upon a million, that is more than 100 per cent. increase. And of the medium Notes, those of 50 and 100 Rupees, we had 186,000. We have now 280,000, that is an increase of only 60 per cent. As for the higher denominations, 500 and 1,000-rupee Notes, we then had 42,000. We have now got 76,000, which shows an increase of something less than 100 per cent.; that is, Notes of the lowest denomination have more than doubled, while medium Notes have only increased 60 per cent. and Notes of the highest have not quite doubled. But the more important test consists in the percentages which the different denominations bear to the total number of Notes, and the proportion which their value bears to the total value of the circulation. When we began in 1864, our lowest Notes were, in number, 66 per cent. of the total circulation. They are now 73 per cent. The medium Notes were 28 per cent.; they are now only 21 per cent. The highest denomination Notes were then 6 per cent., they are still 6 per cent. and a fraction. So that the real increase in the circulation has been solely and entirely, by that test, in the Notes of the lowest denominations. But take the value, which is another test. When we began, the lowest Notes were 10 per cent. of the value; they are now 12 per cent. The medium Notes were 25 per cent.; they have now gone down to 21. The highest Notes were 65 per cent.; they have gone up to 67. The material increase of 10 to 12 per cent., an increase of fully one-fifth, is in the lowest Notes, and in them alone has this increase been remarkable. Well, I submit that the inference from this is that people are more inclined to use Notes of the lowest denominations than Notes of any other. The Committee of 1861 voted against five-rupee Notes. I have no time here to criticise all the objections in detail; they apply nearly as much to ten and to twenty-rupee Notes as to five-rupee Notes; moreover, the Committee who voted so strongly against this measure objected even to ten-rupee Notes. They proposed to have notes not lower than twenty Rupees. They said that ten-rupee Notes would excite "suspicion and discontent" in the minds of the Natives of India.

The value of that opinion has been tested by experience, and most unquestionably their anticipations were erroneous in respect to ten-rupee Notes. I am

confident that they would prove equally erroneous in respect to five-rupee Notes. Still, there have been objections made, sometimes with great authority, and repeated, I may observe, in several influential organs of Native opinion. The matter is of such importance that I may be allowed to notice these objections.

Now, the first objection, perhaps the most important, is that issuing these Notes would cause them to circulate among the poorer classes of the people, both in the Presidency towns and the interior of the country. The classes alluded to are, I believe, domestic and menial servants of all kinds, day-labourers, farm-labourers, in short the very important class designated under the name of "coolies" and small shop-keepers. Now, it must be remembered that the circulation of Notes is really for the most part confined to the Presidency towns, and these classes have in the Presidency towns very great facilities for cashing these Notes. But no doubt these Notes may, and I hope will, go far into the interior of the country, and sometimes even to the remote frontiers. But then we hold that it is practically impossible to force a paper circulation upon a reluctant people. The mercantile members of the Council will bear me out in that. Of course, Notes being legal tender, once an obligation has been incurred, once an article has been delivered, once a man has given his service as labourer or a servant, he must take the Notes in payment. But when he finds he has to pay a discount upon them, he will say "very well, I will quit and leave this employment." Every employer of labour knows that the employer cannot afford to break with his people. It is the same with domestic servants and small shop-keepers. If they find they are refused payment in coin, they may say, "we won't deal with you any more and will quit your service." Thus things will find their own level, and people will soon obtain their own remedy. There may be cases, perhaps, in which a labourer, having been long under an engagement, must take payment in these Notes. But such cases will be exceptional, and partly by the good sense of the employers who cannot afford to make their people discontented, and partly by the just measures adopted by the Government for affording facilities for the cashing of these Notes, the force of this objection will be mitigated and no special danger incurred.

The second objection which has been raised is that there is a liability to fraud by the issue of these Notes; it was supposed that there would be an increased circulation among a very ignorant population, and that they would be easily imposed upon. I do not think that there is much in that, for it must be known that our Notes are perhaps the best and most costly got up Notes in the world. Their workmanship is extremely good, their paper is most difficult

of imitation, and though we have had many millions issued amongst a population at least as skilful in forgery as any other, the amount of forgery has been very little, and, since the issue of the new pattern, next to nothing.

The third objection is that the five-rupee Notes will find their way into the hands of the most ignorant classes of the population, who are the most readily frightened and most likely to make a run upon our currency offices for cash. Well, if these classes feel frightened, let them make a run upon our currency offices. We are always in a strong position with our large reserves of all kinds, and they are able to meet all such runs. If there is a demand for encashment, we can fully supply it. It will not do for a great Government like this to be afraid of issuing these Notes, because there is a probability of their being presented for encashment. That is an objection which could not be urged with propriety in this Council, or, if noticed, only noticed for refutation.

The fourth objection is that these Notes are not easily distinguishable by the ignorant people, and that they might not understand which is the five-rupee and which the ten-rupee Note. I do not myself see the force of the objection; but if there is any, there is an easy way in which it can be met, namely, by having a different Note; not a Note of a different paper or workmanship, but simply a Note of a different size. Our present Notes are very large; nothing is easier than to cut them down by one-third or one-half, and then people can instantly distinguish ten and five-rupee Notes. If that precaution were taken, the objection would not stand. So, for all these reasons, I contend that an experiment ought to be made, the experiment, namely, of issuing these Notes. We have certainly more eminent authority on our side than we have against us. We have Mr. Wilson and Sir C. Wood, and also Sir Bartle Frere, who, at the very time the committee voted against the issue of these Notes, was the only man who stood up for them, and actually proposed an amendment for their legalization, which unfortunately was lost. I contend therefore that *primâ facie* the presumption, both by theory and practice, is that there should be Notes of a lower denomination than ten-rupees. Truly the great peculiarity of India is that, though it is a large country, though it has a vast population, though its aggregate wealth is very considerable, yet the wealth of individuals is extremely small for the most part, and in general the transactions are very diminutive. What is the condition of the metallic currency? Half of the exchange work of the country is done by shells and extremely debased copper, and the remainder almost entirely by silver; gold coins are scarcely used as yet in this country. Precisely the same reasons apply to the paper currency. The Notes should be of an extremely low denomi-

nation, gradually rising to the high denomination. For all these reasons, I am sanguine that this Council will unanimously, or at least with a large majority, give me the authority required for the issue of a five-rupee Note.

There is a further point to which I would allude, namely, that we are prepared, if the public desire, to ask the Secretary of State to let us have these five-rupee Notes of a smaller size than the other Notes. There are questions of expense connected with this, which I think it would be interesting to explain to the Council. I would observe that this involves an extremely small expense. To give an idea of the cost of manufacture, I would explain that the Notes of our currency, according to the old pattern, cost three pies, or the quarter of an anna a piece, and on the new pattern, the cost is seven pies or over one-half an anna, being more than double the cost of the former. Now, let us consider these rates of three and seven pies a piece as determining the cost of manufacture of our existing paper currency. Suppose we issue two millions of Notes (pieces) per annum, at three pie a piece, that would give about Rs. 30,000 a year, and at seven pies would give Rs. 70,000 a year, which is about what the cost now is. Now, suppose we were to manufacture the Notes of the lowest denomination at the cheap rate, we should have to pay Rs. 15,000 a year for a million of such Notes (pieces), and at seven pies, Rs. 35,000; so the Council will see that the matter of cost is really not very great; Rs. 10,000 or 18,000 might be lost or saved to the Department in a year, by extravagance or economy in the manufacture of Notes. I do not say that even this amount is to be despised. I only mention this because it is supposed by some that the cost of manufacture does make some important difference. But it really does not.

Reverting now to the general question, I apprehend that the Council generally, and the mercantile members in particular, will consider that if we are going to scatter Notes of five rupees broadcast all over the country, we ought to do something more than we have done to facilitate the cashing of Notes, and this brings me to the second part of my subject.

Now, in order to illustrate what we have done, I must for a few moments ask the Council to let me explain the position of our silver and security-reserves, respectively, in the Paper Currency Department. There is no doubt that greater facilities are really required in the interior of the country for cashing Notes. A variety of symptoms have pointed of late in this direction. In the first place it is to be remembered that our currency as regards the Presidency towns is not wholly owing to the action of the Government. It was based and had its origin in a great degree on the previous circulation of the Presidency Banks. Where we acted with originality was in the interior of

the country. Where we established circles of issue for the first time, there we made a good start six or seven years ago, but we have not maintained the pace at all. Our circulation rapidly rose to $1\frac{1}{8}$ millions in those circles, and at that point has apparently stopped. Out of a total circulation of $10\frac{2}{3}$ millions, only $1\frac{1}{3}$, or one-seventh, pertain to the interior circles; the remainder belonging to the Presidency circles. There has been a decrease, particularly in the last year or two, and want of vitality in these interior circles. In Nágpúr and Karáchí, for instance, the circulation has flourished, the real cause of that is clearly the connection with the seaboard trade of Bombay. But those circles in the North-West, which were really more independent of the Presidency, did not flourish. In the North-Western Provinces and Oudh, which were included in the Allahabad Circle, the circulation goes on with considerable fluctuation. As for the Panjáb itself, I am sorry to say that the circulation has been steadily falling for the last four years. Then, again, it is unsatisfactory to observe the very large amount of Notes which continue to be held in the cash-balances of the treasuries of the interior. Of course it is an advantage to the State to hold a portion of our cash-balances in Notes. But the intention of sending these Notes to the interior was, in part, that they should be issued from the treasuries to the public in exchange for cash. It is to be regretted that they were not thus applied for, and not thus issued to the extent desired. I will just present some figures to give the Council an idea of the proportion of our nominal circulation which is really not in active use, but is lying in our treasuries. In the Bengal treasuries there are 61 lákhs lying in the vaults. In the Bombay treasuries 42 lákhs, in the treasuries of the North-Western Provinces 12 lákhs, in the Madras treasuries 9 lákhs; all which, together with other items, make up an amount of 162 lákhs, or more than a million and a half out of our total circulation, really held in our own treasuries; and this is a considerable deduction from our gross paper circulation, which now stands at ten millions and a half. Well, all these various symptoms have for some time caused a certain amount of anxiety, and rendered us anxious to strive to improve the circulation in the interior of the country.

Having said this much, I will ask the Council to recall the conditions of the reserves in cash and in securities. Probably many members now present may recollect that I was obliged to trouble the Council with two long speeches in March last, whereby permission was obtained to raise the limit of investment in securities from four to six millions. For various reasons we have not yet availed ourselves in any degree of the powers the Council was then good enough to concede to us in this respect. At the most recent date, the first of January of this year, our cash-reserves were very high, our reserves in securities rather low.

Out of a circulation of 10½ millions, 3¼ millions only were supported by securities, while the rest, namely, upwards of seven millions, was backed by silver and coin. It will be apparent from this that we have large cash-reserves. Having such reserves, we possess this great advantage, that we have a large amount of coin at our disposal that we can make available for cashing Notes in the interior of the country. The maintaining of these strong reserves has indeed the disadvantage of diminishing the profits to the State from the paper currency, but it has this great advantage, that it will enable us to carry out the measures for facilitating encashment, to the ultimately great extension of the circulation; that is to say, we sacrifice (if I may use the simile) the minnow of present profit, in order to catch the whale of future increase.

Now, what have we done hitherto for facilitating the cashing of Notes in the interior of the country?

Before answering this question I should like to remind the Council of the existing state of our obligations *by law* to cash Notes in British India. The Calcutta Circle has two subordinate Circles, one called the Allahabad Circle and the other the Lahore Circle. The Allahabad Office must by law cash Notes of its own Circle, and the Lahore Office those of its Circle. The Calcutta Office must by law cash, not only the Notes of its own Circle, but also those of the Allahabad and Lahore Circles. On the other hand, the Allahabad and Lahore Offices are not bound by law to cash Notes of the Calcutta Circle. Thus far does the obligation by law extend, and no further. Similarly, the Madras Circle has three subordinate Circles—Vizagapatam, Trichinopoly and Calicut; they are of lesser importance, but, *mutatis mutandis*, the application of the obligation by law is the same for them as for the Calcutta Circles. The Bombay Circle has very important subordinate Circles, namely, those of Karáchí, Nágpúr, and Akola. Well, the Offices at Karáchí, at Nágpúr, and at Akola must by law each cash the Notes of their own Circles respectively. The Bombay Office must by law cash the Notes of its own Circle and of its three subordinate Circles. But the subordinate Circles are not bound by law to cash Bombay Notes. Now, although this absolute obligation by law is quite as much as we can undertake, still it manifestly leaves a very great deal to be done by executive action for the public convenience. Every body knows how troublesome it often is that a Calcutta Note may be refused encashment in Northern India, or at Bombay, or at Madras; that a Bombay Note cannot always be cashed in Central India, or in Sindh, or at Calcutta; that the holder of a Madras Note cannot demand cash at either of the other presidencies, and so on. This sort of inconvenience cannot be obviated by law; the remedy, so far as it is possible, can only be effected

by executive management. Having explained this much, I will revert to the question, what have we done for thus facilitating the encashment of Notes in the interior of the country ?

I need not trouble the Council with a recapitulation of small measures authorizing Treasury officers to cash Notes of any Circle for the accommodation of travellers, for inducing Railway Companies to receive such Notes for the payment of fares, and the like, but I will refer to the rather important measure which was carried a year ago in the Executive Government for this purpose. We then ruled, in January last, just a year ago, that all Offices of Issue of Circles in the interior of the country might cash Notes of other Circles to the full extent to which their own Notes had been cashed by other Circles. The result is that Notes to a vast amount, of distant Circles, may be cashed at all the great centres throughout India. That was a very important concession, which placed upwards of one million available for cashing Notes in the above manner. But after a year's trial I am sorry to say it has met with the scantiest success. I would ask the Council to consider for a moment the scope of the measure and the very limited results which have accrued within the first year of trial. According to that test, there were, by the returns of the first week of the present month, 112 lákhs available in the Circles of the interior of the country for the cashing of Notes of distant Circles in all parts of India. Now, within the first year the public availed themselves of that privilege to the extent only of seven lákhs, leaving in our boxes 105 lákhs, or more than one million pounds sterling, waiting to be paid in exchange for Notes if presented. I apprehend that my hon'ble colleagues, the mercantile members, may be surprised when they hear that such is the case. But why is it that the public have so scantily availed themselves of what was intended to be so benevolent a provision ?

I apprehend that, in the first place, the meaning of the notification may not have been correctly understood. But the concession was also unfortunately clogged with certain conditions in regard to Notes being used for purposes of remittance. The conditions did not exactly prescribe that a Note should not be cashed if it were manifestly being used for remittance, but they did virtually direct that enquiry should be made by the cashing officer, as to whether the Note of another Circle, presented under this notification for encashment, was being used for purposes of remittance. I presume that the necessity of answering questions of this kind, of being catechised as it were, has deterred people from presenting Notes from distant Circles for encashment, and left the impression that the Notes could not be cashed without some sort of inconvenient enquiry being made. I can only account in this way for the

extremely small extent to which an important privilege has been made use of. The poverty of result has been remarkable in one or two cases. In the Allahabad Circle they had 35 lákhs available, but only 6 lákhs were so taken up. In the Lahore Circle there were 25 lákhs available for encashment, of which only one lákh was asked for, leaving 24 lákhs available. The comparative failure, in the first year, of this plan, has rather led us to look for a better one. It may be thought that the plan just described deserves a further trial. But on the whole, inasmuch as we have been able, by certain changes in our system, to bring the Currency Department into more immediate relation with the Treasury Department, we have, after careful consultation with the Comptroller General, considered that we may safely introduce a revised plan, which we have accordingly resolved to adopt, and which I will take this opportunity of explaining.

Our revised plan is to take the circulation of a certain Circle, to calculate the minimum amount to which that circulation could be reasonably expected to fall, as being the amount of Notes which the public must have and cannot afford to cash. The minimum thus ascertained need not be supported by cash on the spot. Deduct that from the total circulation, and the remainder will represent the amount which must be locally supported by cash. Thus you get the amount of cash which must be held in the office of the Circle. Compare that with the cash which is actually held. If the actual amount prove to be in excess, then that excess will represent the amount available for general cashing of Notes of other Circles. We propose then to make that sum available for cashing Notes of other Circles. To show, for the moment, how this plan would work, I will give some actual figures. Take the Allahabad Circle. Its circulation on the first of this month stood at 44 lákhs. After careful consideration, our Comptroller General is of opinion that the circulation of that Circle cannot fall below 20 lákhs, which practically must be held in Notes by the public, which Notes they cannot afford to cash. This is what we call the minimum circulation. This amount then need not be locally supported by cash. If it be deducted from the 44 lákhs total circulation, there remain 24 lákhs in circulation which must be supported by cash. Thus 24 lákhs at least of cash ought to be kept up in that particular office as the safety limit. But what amount is actually kept up? Why, 68 lákhs, that is, 44 lákhs beyond the safety limit, or more than we really require. Therefore we propose to say that, at Allahabad, Notes of other Circles may for the present be cashed up to a limit of 44 lákhs. Take the Lahore Circle. Its circulation now stands at 20 lákhs. This circulation according to calculation could not fall below 10 lákhs, which therefore need not be supported by cash. Deduct 10 from 20 lákhs, which would leave 10 lákhs as an amount which must be sup-

ported by cash, which amount in cash must be kept up at Lahore. But what amount is actually kept up? Why, 39 lákhs, which is 29 lákhs more than is required for safety. The 29 lákhs would therefore be available for cashing Notes of other Circles. We would therefore allow Notes of other Circles to be cashed at Lahore within a limit of 29 lákhs. I might go through all the Circles in the same way, but it would perhaps take up too much time. I think I have stated enough to illustrate the plan proposed to be adopted. In this way (all Circles taken together) we should have 260 lákhs available, or upwards of 2½ millions, in our cash-reserves in different parts of the country for cashing Notes on the "universal Note" principle, that is, without reference to place of issue or boundary of Circle; you may take the Notes of any Circle all over India, and get them cashed at the great centres of issue, within certain limits of amount as above explained. As regards these centres, I believe that at present this will be sufficient for all necessary purposes. The limits of amount as set forth may from time to time require modification, and of this due notice would always be given.

My honorable friends the mercantile members will probably remark that this plan applies only to the offices of issue, that is, to the great treasuries at the centres of Circles. They may ask, what are we going to do at the smaller treasuries? Well, what we propose to do is as follows: Out of our cash-reserves we intend to give to the Collector of each principal district throughout the country a certain sum, say a lákh of Rupees, which he is to hold in a separate chest as Agent for the Paper Currency Department. From this chest he may cash all Notes presented, of whatsoever Circle, till the chest runs dry. We also propose to give him a certain quantity of Notes, which he should try to issue in exchange for cash. If he succeeds therein, his hoard of cash will be proportionably augmented. It is to be supposed that, when the district people find that any Note is as good as silver at the Collector's treasury, which in their eyes is the centre of the world, they will begin to take out the Notes and pay cash for them. In this way some Collectors may fortunately find their currency chests rapidly filling, and may have enough cash in their store to sustain a considerable circulation as trustee for the Paper Currency Department.

To give some idea, for the moment, of the extent to which we intend to adopt the system, I would explain a few instances. Take the North-Western Provinces. We intend to make available at least 10 lákhs of the currency cash-reserves for the district treasure-chests, as above explained. That would give a lákh each for the treasuries of Benares, Mirzapore, Cawnpore, Meerut, Agra, Bareilly, Futtehgurh, Roorkee, Muttra, Morada-

bad. That number embraces most of the great centres of trade in those provinces. In the same way we would give 10 lákhs to Bengal Proper, that is to say, a lákh each to Berhampore, Backergunge, Dacca, Gowhatty, Patna, Muzufferpúr, Hazáríbágh, Cuttack, Darjíling, Chittagong. These embrace most of the principal places in Bengal. In the same way for the Panjáb we would give 10 lákhs. One lákh each to Delhi, Ambála, Simla, Amritsar, Mooltan, Jullunder, Ferozepore, Pesháwur, Rawul Pindí, Murree. I only state these arrangements now in the rough Before prescribing the details, we shall of course consult the Local Governments In some district chests we may have to keep up more than the amount I have named, at certain seasons. In some cases we may have to replenish the chest when it runs dry, and so on.

In the same way we would give 10 lákhs to Bombay treasuries, and also 10 lákhs to Madras, but in the presence of distinguished gentlemen from those presidencies, I need not give the names of particular districts to which the allotments would be made. We shall consult them or their respective Governments as to the stations, and the amount to be allotted to each, and I am sure we may count upon the co-operation of the authorities in those presidencies.

Now, by these two plans I hope our honorable friends opposite will see that we shall be getting practically some way towards the long-hoped-for desideratum of an universal Note. By the first plan great facilities will be afforded at the head-quarters of each Circle in the interior of the country for cashing Notes of other Circles. The second or subsidiary plan will give facilities at all the principal treasuries in the districts for cashing Notes of any Circle; also, if at more treasuries than those we propose, the establishment of currency treasure-chests is asked for, we shall strive to find a few more lákhs from our reserves for this purpose; we further desire that the cashing of Notes under both these plans shall be free from all condition and from all questions about their being used for remittances. They are to be cashed as presented for payment, without question or hindrance. Of course we *may* modify from time to time the terms under which Notes should be cashed elsewhere than in their own Circle; we do not bind ourselves by law to cash them in this manner. We remember the distinction which is to be drawn between a legal absolute obligation and a conditional practical executive undertaking. We are very jealous of incurring absolute legal obligations, which are quite stringent enough by the law as it now stands; but we intend to be as liberal as we possibly can in respect to conditional and practical undertaking. But though we would not absolutely bind ourselves, we intend to avoid modifying our undertaking unnecessarily, and we hope for the present to meet to a large extent the public requirements.

I will conclude by making a few remarks about the currency Notes being used for remittance. I believe that there was a good deal of jealousy on the part of the treasury and financial officers on this point. Perhaps it was not unreasonable at first. But until we give up being jealous on this point, we shall never get our currency properly developed. People will use Notes for remittances when they can profitably do so. They will use the Notes as they like, and for whatever purpose they choose, or they will not use them at all. Experience is tolerably certain in that respect. If we interfere, we may give up all hope of extending our paper-currency, or hope for increased profit to the State from this legitimate source. It appears to be considered that, if it can only be shown that Notes are used for purposes of remittance, there is a *reductio ad absurdum*. I think it is a reduction to something very reasonable, and not absurd. It is indeed difficult to say the extent to which Notes are used for remittances. It is commonly supposed, as the Council are aware, that Notes used for remittance are sent in halves through the Post Office. It is possible that all, or nearly all, Notes cut in that manner, are used for the purposes of remittance. Now, it might be useful to know what is the proportion of Notes which are in halves, and are commonly termed "cut Notes."

Take the return for last year of the cut Notes received at the Currency Offices. The percentages of cut Notes on total receipts were as follows:—Of ten-rupee Notes it was 9 per cent.; of the twenty-rupee Notes it was 13 per cent.; of the fifty-rupee Notes it was 22 per cent.; of the hundred-rupee Notes it was 20 per cent.; of the five hundred-rupee Notes it was 19 per cent.; and of the one thousand-rupee Notes it was 9 per cent. Well, the Council will see that these percentages were not very high. If the proportion of cut Notes be taken as a test, then the quantity of Notes used for remittances would seem to be small. However, the test is not by any means perfect, but as far as it may be valid at all, it would show that the proportion is not so great as is commonly supposed. But if it really be that the Notes are used for remittance to a great extent, then it is presumable that the Notes so used would chiefly or largely belong to the highest denomination, Rs. 1,000. If remittance is greatly done by Notes at all, it must be by one thousand-rupee Notes. Now if these Notes were constantly or usually used for remittances, it would follow that their circulation would not increase: as fast as they went out, they would come in again, and so the circulation would continue much the same. But what is the fact? In 1864-65, of one thousand-rupee Notes we had out 3½ millions. In 1869-70, we had out 7 millions. It is within these few years that the circulation has doubled. How then is this to be accounted for? If these Notes were used simply for remittances, and were constantly coming in to be cashed, this would be quite inconsistent with the fact of

this cent. per cent. increase. It would appear, either, that they are taken out for other purposes besides remittance, in the first instance, or that, having once got out for remittance, they stay out for circulation. Partly, also, the increase is to be accounted for by the fact that the banks in the Presidency towns and wealthy individuals use these Notes as money-reserves. That is, of course, undeniably a most legitimate use for these Notes. On the whole, this increase shows that it is very doubtful whether these Notes are used for remittances pure and simple to the extent commonly believed. But assuming that they are so used, I say that this is not a matter to which we should offer any impediment or objection whatever. In the first place, the use of these Notes, even for remittances, greatly accustoms the influential classes of the Natives of India to the sight of paper-money. By using them, the Natives get accustomed to handle them, to post them, to cut them, to despatch them, to receive them, and then, by constantly presenting them for payment at offices of issue and by taking silver for them across the counter, they come to consider them as good as silver. All this tends to establish the popularity of Notes.

Then, these are the very classes whom we want to indoctrinate with ideas of a paper currency. These are the very people whom we wish to teach how to receive Notes without discount whenever presented to them by their customers. If they came to consider the Notes to be as good as silver, they would regard them in that light when presented, and receive them accordingly. We should hear then much less of shroffs (Native bankers) refusing to receive these Notes without discount. In fact, I cannot imagine anything more beneficial to the propagation of our circulation than the accustoming of these influential people to the use of Notes for any purpose whatever, be that purpose what it may. Then, again, the use of these Notes for remittance must be a great convenience to trade. Now, if we can subserve or promote purposes of commerce without any undue loss to the State, or without the violation of any sound economic principle, in the name of common sense, what objection is there to this? For what are all these arrangements made, unless for the public convenience?

There is special reason why we should facilitate the circulation of Notes in India, for, as compared with European countries, the circulation of our Notes occupies a very large proportion of the general medium of exchange.

In England, as everybody knows, one of the largest elements in the medium of exchange consists of bills and cheques. In London, 97 per cent. of the exchange appears to be done by bills; 2 per cent. by Notes, and about 1 per cent. by coin. But in India, as the mercantile members of the Council

know, our currency is not so largely supplemented by bills. We have no clearing house; we have not those infinite facilities for the use of bills and cheques. I am not sure that I can state what proportion of the medium of exchange in Calcutta consists of bills. There are indeed statistics available, but I am informed that they are not reliable. However, I may say that, so far as we know, in our medium of exchange, bills do not bear a larger proportion than sixty per cent. Compare that with the ninety-seven per cent. in London. Well, the sixty per cent. of bills in Calcutta appears to leave thirty per cent. consisting of Notes, the remaining ten per cent. consisting of coin. I say that I am not sure that these proportions regarding Calcutta are quite correct. But even if they are approximately correct, they show the large place occupied by Notes in our medium of exchange, and the immense importance of paper-money to the mercantile community in India; that is one reason why we should do all we can to facilitate the circulation of Notes of all denominations, high and low.

Still, there are certain objections urged by persons of great authority against our being too ready to acquiesce in the use of Notes for the mere purpose of remittance. And I will, for one moment, ask the permission of the Council to answer some of these. We are told that the practice interferes with hundíána, that is, the premium or commission which is charged by Native bankers upon their bills of exchange. Now, suppose that it does interfere. Nobody complains of that. Why, this very class who receive hundíána are the persons who use Notes for remittance and advocate the practice. Of course, they cannot complain that their own hundíána is disturbed or interfered with by a method which they themselves were the first to introduce and to foster. I suppose it would be regarded by them as a matter of profit and loss. It is probably in their eyes as broad as it is long; on the one hand they would make less money by hundíána on the bills they grant to others, on the other hand they would save hundíána on the bills they have to obtain for themselves. It simply comes to this, that, as a medium of remittance, they prefer Government Notes to the Native hundí or bill of exchange. Probably they assume that the Government Note is more certain to be cashed than the Native hundí, while the rate is never unfavourable. At all events, they are the best judges of their own interests in the matter, and it is useless for us to trouble ourselves about it, considering that the classes most interested do not complain. Then, I am told that it would compel us to keep up larger cash-balances all over the country. But you may remember that the fact of these Notes getting out in great quantities indicates that precisely similar amounts must have been paid into our cash-balances, as Notes are issued only against coin. If so many millions worth of Notes get out, there must have been so many millions of cash

paid in somewhere. In that case, then, the general cash-reserve must be proportionally strong, and our task would be to distribute it where most needed to support our paper-money.

It was urged, thirdly, that to sanction this practice would be merely to put upon Government a charge for remittance. I fully acknowledge that such an expense might occasionally accrue, but I would ask the Council to consider what such charge might amount to. The expense of transporting a million in coin might be one-half per cent., in reality, in most conceivable instances, one quarter per cent. Now, what would this amount to on one crore of rupees or one million sterling? Only half a lákh, or £5,000, at half per cent.; and at a quarter per cent. Rs. 25,000. At an expense of two lákhs, or £20,000, we could move about four crores of silver at half per cent.; while, at a quarter per cent., we could do it for one lákh or £10,000. The above is rather an extreme case, and even in that case the cost would be small. But we should probably never have to move so much as this, and the cost would ordinarily be much less. But supposing we did have to incur an expense of, say, one lákh in moving four crores about the country for the purpose of cashing all the Notes of the highest denomination used for purposes of remittance, that would so far diminish the profit to Government from the Currency Department. Now, what are these annual profits? The gross profit for the last year, 1869-70, was 16½ lákhs. Out of that we spent 2¾ in the establishment and other charges of the Department, leaving a nett profit of 13¾ lákhs. Well, if we have to spend a lákh in moving silver for meeting remittances pure and simple, the effect would be to deduct one lákh from 13¾ lákhs of profit. The question then arises, whether it is worth while to incur that risk and that charge. I say without doubt that it may well be worth while. I should not be very sorry to see such a state of things occur. We might have a run upon our cash-reserves, and we should meet it with the utmost promptitude and efficiency, and having so provided for it, I should expect that our Paper Currency would thereafter be increased. The prestige of the Department would rise and the public confidence would be strengthened. This circulation ultimately expanding, the limit of investment of securities would be extended, and the profit of the State would increase. Thus, a lákh spent in moving about the silver would in the highest sense be reproductive, and would fructify a hundred-fold in future years.

Such, then, are the various points which I have to bring before the Council in reference to the two parts into which I have divided my speech; firstly—as to the five-rupee Notes—the reasons why we propose to issue them; and,

secondly, the measures we are resolved to take for facilitating the cashing of Notes all over the country; being, so far as they go, steps directly towards the establishment of the "universal Note." I dare say that, in the course of a not very long time, we may extend facilities for cashing Notes still further. I am sanguine that the Council would consider these to be important improvements in a monetary point of view. The Council will remember that, in past years, much attention has been given to the Paper Currency by the Financial Department of the Government of India. The late Head Commissioner, Colonel Hyde, gave much consideration to this subject. The present Head Commissioner, Mr. Harrison, whose ability is well known to the Council, and his very able Deputy, Mr. Gay, have been giving the same continuous attention to these matters, especially to those which I have brought before the Council today. I hope that the results will show that our management of this Department is such as to justify the confidence which the Council has from time to time evinced in sanctioning legislative measures for establishing a sound Paper Currency throughout British India."

PLEADERS, MUKHTÁRS AND REVENUE AGENTS BILL.

The Hon'ble Mr. Stephen introduced the Bill to consolidate and amend the law relating to Pleaders, Mukhtárs and Revenue Agents, and moved that it be referred to a Select Committee with instructions to report in six weeks.

The Motion was put and agreed to.

ÁBKÁRÍ BILL.

The Hon'ble Mr. Inglis introduced the Bill to consolidate and amend the law relating to the Ábkárí Revenue in Northern India, and moved that it be referred to a Select Committee with instructions to report in six weeks. He said that the object of the Bill was to consolidate the Ábkárí law now contained in four Acts; and to extend the provisions of the revised enactment to British Burma, in place of the rules now in force there under Act XXIII of 1868.

The law had been re-arranged and the wording improved; and a few sections, rendered unnecessary by subsequent legislation, had been omitted. The only substantial alteration proposed to be made in it was in the section which empowered a licensed retail vendor to surrender his license at any time, on giving fifteen days' notice and paying a fine equal to the amount of the license for fifteen days.

This provision had been found to work inconveniently. The period of the year when the Ábkárí licensees made their greatest profits was in the spring

and early part of the summer. They now surrendered their licenses when this profitable season had passed, and loss was entailed on Government by the licenses being resold at lower rates, and frequently to the former holders.

The proposed amendment would remedy this, by requiring that a licensed vendor who might wish to surrender his license must give one month's previous notice to the Collector, and, if sufficient reason for the surrender was not shown, might be called upon to pay such fine, not exceeding the amount of the license for six months, as the Collector might determine.

The Bill had been sent to the Local Governments.

The Motion was put and agreed to.

The following Select Committees were named :—

On the Bill to amend the law relating to Customs Duties—The Hon'ble Messrs. Stephen, Bullen Smith, Cockerell, Inglis, Cowie, and Robinson and the Mover.

On the Bill to consolidate and amend the law relating to Pleaders, Mukhtárs and Revenue Agents—The Hon'ble Messrs. Cockerell, Inglis and Robinson and the Mover.

On the Bill to consolidate and amend the law relating to the Ábkárí Revenue in Northern India—The Hon'ble Messrs. Stephen, Cockerell and Robinson and the Mover.

The Council adjourned to Friday, the 20th January 1871.

CALCUTTA,
The 13*th January* 1871.

WHITLEY STOKES,
Secy. to the Govt. of India.

Office Supdt. Govt. Printing.—No. 6342 L. C.—20-1-71.—200.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Government House on Friday, the 20th January 1871.

PRESENT:

His Excellency the Viceroy and Governor General of India, K. P., G. M. S. I., *presiding.*

The Hon'ble John Strachey.

The Hon'ble Sir Richard Temple, K. C. S. I.

The Hon'ble J. Fitzjames Stephen, Q. C.

The Hon'ble B. H. Ellis.

Major-General the Hon'ble H. W. Norman, C. B.

Colonel the Hon'ble R. Strachey, C. S. I.

The Hon'ble Francis Steuart Chapman.

The Hon'ble J. R. Bullen Smith.

The Hon'ble F. R. Cockerell.

The Hon'ble J. F. D. Inglis.

The Hon'ble D. Cowie.

The Hon'ble W. Robinson, C. S. I.

PAPER CURRENCY BILL.

The Hon'ble SIR RICHARD TEMPLE moved that the report of the Select Committee on the Bill to consolidate the law relating to the Government Paper Currency be taken into consideration. At the last meeting, a week ago, he had, in presenting the Report of the Select Committee, submitted a somewhat lengthy explanation of the views and intentions of the Government. He would therefore not trouble the Council with any further remarks at present, but would merely move that the Report of the Select Committee be taken into consideration. Any further remarks could best be made after he had had the advantage of hearing what Hon'ble Members had to say on the subject.

The Hon'ble MR. COWIE wished to express his satisfaction at the improvements and alterations in the working of the Currency system, which the Hon'ble the Financial Member so ably propounded to the Council last Friday. He (MR. COWIE) believed they would conduce to the profit of the

Government, and the advantage of all those classes who were fortunate enough to have to deal with Currency Notes. If he were disposed to take exception to any part of the arrangement, it would be to the comparative smallness of the sums allotted to certain large towns for the encashment of Notes of other Circles. The Council would readily understand that, in some of the great centres of trade,—in cotton, jute or seed-producing districts,—a lákh of rupees was a mere drop in the ocean. Still, as he conceived the arrangement to be a tentative one, and believed the Executive Government would readily expand it when that could be done with safety, he offered no opposition.

MR. COWIE had heard the measures now introduced by the Hon'ble Member described as steps in the direction of that desirable consummation—a universal Note. If this meant that, throughout the length and breadth of this vast country, the holder of a certain piece of paper would always and everywhere be able to demand current coin for it, he confessed he thought the idea somewhat Utopian.

It might come in the course of years—so might chronic surpluses in financial budgets; but he (MR. COWIE) hardly expected to live long enough to see either.

The Hon'ble MR. BULLEN SMITH had already ventured to express his opinion in favour of the chief change made by the Select Committee in their report, and desired now only in a few words to express the great satisfaction which he felt at the unanimity with which this change had been determined on in Select Committee, and his hope that the Hon'ble Member might this day find the Bill in its amended form received with an equally unanimous expression of approval by the Council generally. It was only natural that, since this subject had been before the Council three weeks ago, a good deal of discussion should have taken place out of doors; but without wishing to undervalue the opinions of those who differed from him on this point; without saying that there was nothing to be said on the other side, he did not hesitate to say that he had heard nothing of sufficient weight to alter his previously conceived opinion, or to make him hesitate as a Member of this Council to give to the Executive the further discretionary power proposed by the Bill. Only one of the many objections which were noticed and refuted by Sir Richard Temple at the last meeting of the Council, seemed to him at first sight to carry any real weight; it was the one specially put forward by the Committee of the British Indian Association, in the paper lately circulated, who stated broadly that, in their opinion, the time had not come for the

issue of Notes of a lower denomination than now existed, and that the introduction of a five-rupee Note would be attended with loss and inconvenience to the poorer classes. Now, he could not but remember that equally strong objections had been entertained ten years ago to the ten-rupee Note, which had yet been a success, if any part of our currency could be said to have succeeded; and the more he thought upon the subject and looked into the manner in which the actual monetary transactions of the poorer classes of the people were carried on in this country, at least in Lower Bengal, the less did he fear any such result as that apprehended by the Committee of the British Indian Association, and the more was he convinced that the opinion expressed in this paper was likely to prove greatly exaggerated, and that the introduction of a five-rupee. Note would not be attended with anything like the evil effects anticipated. He observed that the Committee of the Association spoke of this Currency being forced on the people, but the Committee had apparently forgotten that the Bill merely gave a discretionary power to the executive Government to issue this smaller Note at such time and to such extent as they deemed expedient. Looking to the extreme caution and absence of anything like precipitancy which had marked the procedure of Government in time past in reference to the Paper Currency, there was found a guarantee that there would be no attempt to force this new Note.

It seemed to him that if there was one single expression which was altogether inapplicable to the probable action of the Government in this matter, it was that expression. In the face of the opinions of general authorities of such eminence as the late Mr. Wilson and Sir Charles Wood, and in the face of the opinions of many having intimate local knowledge of India, such as the late Governor of Bombay and others, this Government had for ten long years abstained from issuing any Note smaller than ten rupees; he believed that the time had now come when the Government might with perfect safety and advantage, and indeed ought to, go a step further. He did not for a moment believe these five-rupee Notes would be the source of any inconvenience. On the contrary, he was of opinion that their issue would be a material benefit, which would be more and more acknowledged as time went on; their immediate and extensive circulation in the rural districts he did not expect, but he looked for steady increase, and was firmly convinced that these five-rupee Notes would gradually and slowly bridge over the great barrier hitherto existing between the Paper Currency scheme and the monetary transactions of the people generally.

As to the statement made by the Hon'ble Sir Richard Temple regarding the executive measures which were proposed to be adopted for facili-

tating the circulation of the currency, he could only say that he had listened to it with extreme satisfaction. These measures did not go so far as some desired; they did not go so far as he (MR. BULLEN SMITH) hoped Government would hereafter see its way to advance; but they were unquestionably a material move in the right direction, and in as far as general opinion on the subject had reached him, he believed there was no measure which, taken as a whole, would be received with greater satisfaction than that which the hon'ble gentleman now desired should pass.

The HON'BLE MR. ELLIS said that it would be mere waste of time if he detained the Council at length on the matter before them, as he had only to express his entire concurrence with what had fallen from the Hon'ble Mover and other Members. There was one point, however, which he would wish to notice; it was a point which had already been adverted to by the Hon'ble Mr. Cowie. It seemed to him that the sums which it was proposed to set apart at the different centres of trade up-country to meet the demand for Notes under this new system were wholly and entirely inadequate, and, as regards the great places of business for cotton in Western India, with which he (MR. ELLIS) was best acquainted, the proportion of a lákh of rupees set apart for the cashing of Notes seemed, as the Hon'ble Mr. Cowie had described it, a mere drop in the ocean. But MR. ELLIS would assume that it was not intended to proceed at these great centres of trade in a half-hearted way, and we might, he thought, assure the public that trade would be dealt with most liberally, and that, as far as was consistent with safety, every encouragement would be given to the extension of the system. Of course more than this no one could ask for; thus much at least, he was sure, his Hon'ble Colleague, Sir Richard Temple, would be prepared to assure us he would grant.

The Hon'ble SIR RICHARD TEMPLE said he would then, before moving that the Bill be passed, make a few brief observations on the remarks which had fallen from his hon'ble colleagues who had just spoken.

The Hon'ble Mr. Cowie had remarked with great justice upon the project often mooted, of having a universal Note: he considered that we were a long way off from such a desideratum, and hardly hoped he could live long enough to see it. SIR RICHARD TEMPLE believed he might say on this point that we had more nearly approached such a consummation than the hon'ble member at present probably imagined. He must observe that the phrase "a universal Note" might have two meanings: it might mean that a Note was a legal tender everywhere, or that any person might take any Note of any denomination or of any Circle to any Treasury in India, and obtain cash for it: It was in the second sense that he believed the phrase had been used. Now, that being the

case, he submitted that the realization of that principle was not quite so Utopian as might be imagined. For, by the explanation which he had the honour to submit to this Council on the last occasion it would be apparent that, within certain limitations, which he had already once explained, and which he would further explain shortly, a person might now, or rather at an immediately future time, take any Note, of any Circle or of any denomination, to all the principal treasuries throughout India, and obtain cash for it. It was only a question of limitation. Up to a certain limit we had already something very much like a universal Note.

Well, that point brought him to the consideration of the limit. His hon'ble friends Mr. Cowie and Mr. Bullen Smith, and his hon'ble colleague Mr. Ellis, had all three remarked with great force on the apparent inadequacy of the amount we proposed to set apart at the principal district treasuries for the cashing of Notes. He must just explain further what that limitation really meant. He stated, no doubt, last Friday, that it was proposed, in the first instance, to place a lákh of rupees at each one of these principal treasuries, as a sort of primary reserve—as something to start with—as a nucleus for further operations. The hope was, of course, that as soon as the public found that, at certain Treasuries, Notes could be cashed by the Collectors, they would begin themselves to take out Notes from those Treasuries for local circulation. Such an operation would cause a further considerable increase to the cash-reserves; because Notes were only issued in exchange for cash. At certain seasons there would be a considerable demand for Notes in exchange for silver; and at others there would be a demand for cash in exchange for Notes. So there would be at many seasons a very considerable accumulation of cash in the Currency chests. Well, there being that accumulation, the chests could stand a considerable run—a very considerable drain—at certain other seasons. Seeing that effect on the Treasury chests—seeing there was a large number of Notes out in a certain district,—seeing that the Currency chest was assuming large dimensions, it would be our endeavour to support its operations freely by providing rather larger reserves in the District Treasury to meet a season of withdrawal, so far as permitted by the state of the general reserves and the cash-balances of the country, which were also pledged for the security of the Paper Currency. It would be done in this way. It might be that, at the great centres of trade, the Presidency towns and other places, we had not only very large cash-balances at the General Treasuries, but we had also very extensive Currency reserves in cash, far exceeding what we were bound to maintain by law. If we observed that, at such places as the cotton districts, Akola, Dharwar and Ahmedabad, and at Dacca in the Eastern Provinces, where there were very large transactions in

jute, and certain other places which would no doubt occur to the Council,—when we saw that the Currency operations at such places were getting so large, we might from our cash-balances strengthen our cash-reserves at those places to support the Currency, and we could recoup ourselves by taking an equivalent from the Currency reserves at other places. So that the Council would see we had the means and the power, if we liked, to "deal liberally with the trade of the country," as his hon'ble friends had observed, "to help it as far as we possibly could," and to facilitate increased circulation in the manner which we had so lately undertaken, and that we had the intention to do so. In that respect he fully bore out what had fallen from his hon'ble colleague, Mr. Ellis, who very justly observed that it was the intention of the Government (it was certainly SIR RICHARD TEMPLE'S intention, as far as he was able,) to make the measure as successful as we could; to do something more than contribute "a mere drop in the ocean," and "not to halt half-way;" to deal with the trade most liberally as far as might be consistent with the safety of the Currency. All these expressions he cordially adopted. He had only to add that he hoped that if we dealt liberally with the trade, the trade also would deal fairly with us. There must in these matters be a certain amount of trust: we were not to suppose that a lákh of rupees would be put into a Treasury to be instantly drained to the disadvantage of the Paper Currency. It was expected that the trade would perceive the advantages of the Paper Currency; that they would take out Notes sometimes, and demand cash at others, in exchange for their Notes. He was sure that if our arrangements were appreciated, and a local circulation added in the manner he anticipated, there would be no practical difficulty whatever.

There was one more point to which he asked permission to refer. He had seen it stated in various quarters, in respect of the five-rupee Notes, that if the measure was so extremely clear as he had represented it to be,—if the arguments and objections against it were so easily refuted,—then why, in the name of common sense, had not this been done some years ago? Why had we waited for "ten long years of preparation?" He conceived he had a very clear answer to that: he had plain reasons to give for the delay. It must be remembered that the proposition for the issue of five-rupee Notes ten years ago was deliberately rejected by the Government of India, and that that rejection was adhered to despite the adverse criticism of such an eminent authority as the then Secretary of State for India. That was the serious decision of the highest authority in India, and could not be set aside lightly, although, in the estimation of the present Government and of this Council, the arguments in favour of a five-rupee Note were very clear. That was not the universal opinion, but he hoped it was the preponderating opinion. Still, it

must not be forgotten there were many well-informed persons who thought differently. A prominent instance of this had been brought forward to-day, for, as had been observed, the British Indian Association were deliberately against it : though we thought our course clear, the Association did not think so. The main objection formerly raised was that we must test these Notes by experience. The only answer to that was by reference to actual facts, which could not be tested without the lapse of some years. The advantage now was that we were able to answer these objections with a long array of facts. Again, we were rather unwilling to bring forward a project for the issue of five-rupee Notes a second time without being able to state to the Council and the public what additional facilities we were prepared to offer for cashing our Notes in the interior. He was sanguine that these reasons would be considered by the Council as fully valid to account for the delay which had occurred in bringing forward this measure.

Before he concluded he would desire to offer, on his own part, his thanks to his hon'ble friends the mercantile members of the Council for the support they had given to Government in this matter,—a matter in which their opinion necessarily carried very great weight; and he could assure his hon'ble friends that it was his conviction that the remarks they had made from time to time in this Council on this subject had proved, and would continue to prove, of very material assistance to the Financial Department of the Government of India.

The Motion was put and agreed to.

COLONEL the Hon'ble R. STRACHEY moved that, in section 11, clause (*b*), for the words "thousand tolas," the words "one hundred and eighty thousand grains" be substituted.

Also that, in the last paragraph of section 17, for the words "hundred tolas," the words "eighteen thousand grains of standard fineness" be substituted.

The Motions were put and agreed to.

The Hon'ble SIR RICHARD TEMPLE then moved that the Bill as amended be passed.

The Motion was put and agreed to.

CORONERS' BILL.

The Hon'ble Mr. Stephen presented the final report of the Select Committee on the Bill to consolidate the laws relating to Coroners.

PRISONERS' BILL.

The Hon'ble Mr. Cockerell presented the report of the Select Committee on the Bill to consolidate the law relating to Prisoners committed by a Court.

The Council adjourned to Friday, the 27th January 1871.

Calcutta,
The 20th January 1871.

WHITLEY STOKES,
Secy. to the Govt. of India.

Office Supdt Govt Printing.—No 0378 ,L. C.—24 1-71 —200.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Government House on Friday, the 27th January 1871.

PRESENT:

His Excellency the Viceroy and Governor General of India, K. P., G. M. S. I., *presiding.*

The Hon'ble John Strachey.

The Hon'ble J. Fitzjames Stephen, Q. C.

The Hon'ble B. H. Ellis.

Major General the Hon'ble H. W. Norman, C. B.

Colonel the Hon'ble R. Strachey, C. S. I.

The Hon'ble F. S. Chapman.

The Hon'ble F. R. Cockerell.

The Hon'ble J. F. D. Inglis.

The Hon'ble D. Cowie.

The Hon'ble W. Robinson, C. S. I.

CORONERS' BILL.

The Hon'ble MR. STEPHEN moved that the final report of the Select Committee on the Bill to consolidate the laws relating to Coroners be taken into consideration. He did not know that this Bill was of any special importance, but he would take the opportunity of saying, and he thought the Council would like to hear, something of the progress of the scheme of consolidation of which this Bill formed a part and of which it supplied an illustration. The Bill repealed four Acts and consolidated them into one, and in that way effected a considerable simplification of the law. But besides this it codified or converted into express propositions a considerable body of law which at present existed in a loose, ill-ascertained condition; and had to be discovered by reference to English text-books. The Coroners of the presidency towns were appointed under 33 Geo. III, c. 52, s. 157, which (with much verbiage) gave them the same jurisdiction within those towns as Coroners in England had. The effect of this was to introduce into the presidencies the English law relating to Coroners. Now the English law relating to Coroners was one of the most curiously antiquated, and in some points he would say the worst, parts of the whole body of

the English law. A Coroner, as those who were conversant with the matter knew, was one of the most ancient of English legal officers. His jurisdiction was based on a Statute which was passed about six hundred years ago, namely, in the fourth year of the reign of Edward I; though Coroners existed at a much earlier date. At all events they possessed under the Statute of Edward I, and otherwise, powers which they had been discharging in England ever since. Some of these powers were of a very singular nature. One was, that it was the duty of the Coroner to find what were called deodands; and it was singular that, although some years ago deodands were abolished in England, they had legal existence at the present time in this country. The law about deodands was something so strange that one hardly knew how to discuss the matter. The theory of the law of deodands seemed to be that the thing which caused a man's death was more or less a cursed thing; but whatever the reason might be, the rule was that the matter, property, or chattel, which was the immediate cause of accidental death, was to be forfeited to the Crown. There were many other very remarkable rules on the subject of deodands, which prevailed in England up to the year 1847, one of which rules was (though there seemed to be some doubt on this point) that if a man fell from a boat or vessel in fresh water, the vessel and its cargo might be forfeited as a deodand. He did not know how far that was law, or whether the rule had ever been acted upon. This was one of the curious antiquities connected with the law of Coroners. But there was another, which was very characteristic of the strange manner in which legal reforms were carried on in England. The Coroner had to return an inquisition, which had to be drawn up with the strictness of an indictment. Now the strictness of indictments under the English law of former times was one of its greatest scandals; to a certain extent it had been reformed. The way in which this reform was effected was by giving a long list of technical defects, and providing that no one of them should vitiate the indictment. This method had been applied to the case of Coroners' inquisitions, and had been introduced into this country, where at this moment it was law. Act IV of 1848 enacted that a Coroner's inquisition was not to be quashed by the omission of certain forms of words given in the Statute, such as "with force and arms," "against the peace," "against the form of the Statute," and a string of others which filled a page, all of which were not to be objections to inquisitions taken. What was left was bad enough, because, although you might make these mistakes, there were a great variety of others which you might not make. In particular the Coroner was bound to describe the whole matter and the whole way in which the person came by his death in a manner which seemed to Mr. Stephen extremely absurd.

For instance, the proper way of saying that a man was killed by a railway accident was as follows, first "the jurors aforesaid upon their oaths aforesaid say that a certain locomotive steam-engine numbered , with a certain tender attached thereto and worked therewith, and also with divers, to wit, ten carriages used for the conveyance of passengers for hire on a certain railway called the Railway, and which said carriages were then attached and fastened together and to the tender and were then propelled by the said locomotive steam-engine, were moving and travelling along the said railway." Having made this statement "the jurors aforesaid, on their oaths aforesaid," took breath—as well they might—and then proceeded to swear in an equally cumbrous manner that whilst all this was going on "a certain other locomotive steam-engine numbered , with a certain other tender attached," &c., "and also with divers, to wit, five other carriages," &c., &c., "were also going along the railway." They then stated that the dead man was sitting in one of the second set of carriages. Then that "the said first mentioned locomotive steam-engine, tender and carriages" going on, &c., and "the said secondly mentioned locomotive," &c., "being then so respectively moving and travelling upon the said railway in different and opposite directions came into sudden, violent and forcible contact and collision by means whereof the said R. F. then received divers mortal wounds, bruises and concussions, of which said mortal wounds, bruises and concussions the said R. F. then instantly died."

It seemed to him that to say that the man was killed by a railway accident would be as good and more intelligible.

The law as to *felo de se* was another part of the law relating to Coroners. In England, a *felo de se* forfeited his goods, and the Coroner's jury had to find whether a man who killed himself was *felo de se* or not. It had been held that forfeiture for suicide did not exist in this country, but Coroners' juries still found whether or not a man committed *felo de se*. This practice would be abolished by the Bill. In addition to these, Coroners had a variety of jurisdictions which were no longer required: they had to enquire into treasure-trove and wrecks, to seize fugitives' goods, and the like. In fact, there was a good deal of doubt about the question of the several jurisdictions of the Coroner which were established. In order to do that, the Bill had expressly taken away all jurisdiction from Coroners except what was given by the Bill, and it put into simple rules the jurisdiction which they were to exercise: it took away and abolished the whole of the law of England on the subject, and gave the form of inquisition to be found in cases of death. It was nearly as simple as the forms which would be used in com-

mon conversation; for instance, if a man was drowned in the Hughli the inquisition would state that his "death was caused on or about the day of 1871 by falling out of a boat into the river Hughli whereby he was drowned."

The effect would be that Coroners in the presidency towns would not have to look beyond the four corners of this Bill to know their duties: they would not have to buy "Jervis on Coroners:" so that the Bill would be equivalent to that book and to the three or four Acts of Parliament and Acts of the Indian legislature, which explained and modified the English law relating to Coroners.

That was the nature of the Bill which he now asked the Council to consider. He wished to take the opportunity of saying a few words on the general subject of the consolidation of the law of which this measure formed a part, because he had noticed that remarks had been made about over-legislation and the undue haste of the Legislative Department. He wished to point out what the real state of the case was. The work of the Legislative Department had been for a considerable length of time substantially directed, not to increasing the law, but simply to repealing the existing law, to putting it into order, and to expressing it in a clear and unmistakeable form. Though that involved the passing of a considerable number of enactments, the effect was very much to shorten, instead of increasing, the law. He would only say with regard to that, that if any one would look at the law of this country before this process was undertaken, he would come to the conclusion that, if it had not been undertaken, and very efficiently carried on for a good many years past, it would have been almost impossible to administer justice, especially when you had a large number of Courts and Judges who were not professionally familiar with law. For instance "Beaufort's Digest," the standard book on Indian Criminal Law before the Penal Code was enacted, consisted of three closely printed quarto volumes. Mr. Mayne's Penal Code, you would find, embodied the substance of those volumes in a comparatively small octavo, rather loosely printed. Mr. Clarke's edition of the old Bengal Regulations, printed seventeen years ago, consisted of two thick quarto volumes containing 1,763 pages. The Bengal Regulations still remaining unrepealed would go easily into a moderate octavo volume.

In order to give the Council ocular demonstration of this, he had brought down two sets of books, and would ask the Council to look at them. This set contained Mr. Theobald's edition of the Legislative Acts of the Governor General in Council. The first five volumes contained the Acts from 1834 to 1867 still unrepealed at the end of 1867; and the other three volumes contained the Acts for 1868, 1869 and 1870: so that the whole of the Acts of the Legislative

Council filled five thick volumes and three smaller volumes. The other day Mr. Fagan had published an edition of the Acts which were unrepealed at the end of 1870, so that his work included almost the whole unrepealed portion of the law. It consisted of three octavo volumes about the same size as Mr. Theobald's, though the page was rather fuller. Thus the Acts now went into three volumes, while in Theobald's edition they filled five thick volumes, *plus* three smaller volumes. The effect of the measures of the last few years was apparent, more in the repealing of old, than in the making of new laws. The result was very much to lessen the labour and to diminish the total amount of the law with which any person had to acquaint himself. The process of reduction was still going on, and he hoped after a certain time that these three volumes would be brought down to a still smaller compass.

He wished at the same time to make another statement with regard to this process of consolidation. He thought that persons not practically acquainted with the law were liable to fall into a very serious error on the subject, an error which might be shared in by many lawyers who had not turned their attention to that direction. It was supposed that, when a law was once made, it ought to last for a hundred years and never get out of repair, and should then be as good as new. It seemed to him that you might as well build a railway to Lahore and expect that it would not require repairs. It was true that the wear and tear, so to speak, of a law were not so rapid as the wear and tear of a public work. But wear and tear there always were and always would be, for the wit of man could not devise any law which would be complete and last for ever, although each successive re-statement of the law would make it clearer and plainer. It must be remembered that there were a vast number of transactions arising under each law, and a considerable number of clever people constantly engaged in criticizing and picking holes in its provisions. And when once you had got holes picked, they were sure to be picked larger and larger until you had got a great mass of cases on the Statute which would make it more complicated than before. The only way to prevent this was by continually keeping the law in repair, just as you kept any other work in repair. You had to keep looking to find where the defects were and what questions had arisen: to repeal one law and make a new one. In that way you might get things into a smaller compass still. But to suppose that it was in the power of any person or any set of persons to put the law of a great country into a small compass, and say that that was the law and that it was never to be altered, was to make a very great mistake indeed, and they would be utterly disappointed in any such expectation. However small the compass might be into which the law

was brought, the law would still have to be continually subjected to revision and re-enactment, and that would go on exactly in the same manner as at present. If the law was to be kept in a reasonable form, it would be necessary to have a special department of persons continually working upon it, just as you require to have a sufficient number of plate-layers on a line of railway. He thought the public at large was not sufficiently aware of that fact.

The Motion was put and agreed to.

The Hon'ble MR. STEPHEN also moved that the Bill as amended be passed.

The Motion was put and agreed to.

PRISONERS' BILL.

The Hon'ble MR. COCKERELL moved that the report of the Select Committee on the Bill to consolidate the law relating to Prisoners committed by a Court be taken into consideration. He said that the degree of credit, on the score of usefulness, to which this Bill was entitled as a part of the scheme on which his hon'ble and learned friend (Mr. Stephen) had just dilated would be best understood by a reference to the schedule, from which it would be seen that the Bill purported to reduce to one Act the entire provisions of no less than eight different enactments as well as portions of two others.

The only alteration in the substance of the existing law contemplated by the amended Bill was in regard to the constitution of the tribunal by which persons must be convicted and sentenced for certain offences in Native States, in order to admit of their imprisonment within British territory.

As the law now stood, the British officer who was a member of such tribunal must be duly authorized to act in that capacity by the Native Prince or State. As a matter of fact, however, in the case of many of these mixed Courts, the British officer was not, and from various causes could not be, so authorized.

To bring the law therefore into accordance with the existing practice, the words "or by the Governor General in Council" had been introduced into the last clause of the nineteenth section.

The other proposed changes were merely verbal.

In Part V, the application of sections 30 and 31 had been made general by the omission of the words "not established by Royal Charter" which occurred in the original Bill immediately after the word "Court." This amendment

effectuated the fusion of the provisions of the Bill, in regard to the removal of prisoners from one prison to another, with the corresponding provisions of the Criminal Procedure Code. The Bill was thus rendered more complete as a consolidation measure, and the Code was relieved of matter foreign to its natural scope and object.

The Motion was put and agreed to.

The Hon'ble MR. COCKERELL also moved that the Bill as amended be passed.

The Motion was put and agreed to.

CRIMINAL PROCEDURE BILL.

The Hon'ble MR. STEPHEN moved that the Hon'ble Mr. Chapman be added to the Select Committee on the Bill for regulating the Procedure of the Courts of Criminal Judicature not established by Royal Charter.

The Motion was put and agreed to.

INDIAN CONTRACT LAW BILL.

The Hon'ble MR. STEPHEN also moved that the Hon'ble Messrs. Robinson and Inglis be added to the Select Committee on the Bill to define and amend the law relating to Contracts, Sale of Moveables, Indemnity and Guarantee, Bailment, Agency and Partnership.

The Motion was put and agreed to.

CRIMINAL TRIBES' BILL.

The Hon'ble MR. STEPHEN then moved that the Hon'ble Mr. Robinson be added to the Select Committee on the Bill for the registration of Criminal Tribes and Eunuchs.

The Motion was put and agreed to.

The Council adjourned to Friday, the 10th February 1871.

CALCUTTA,
The 27th January 1871.

WHITLEY STOKES,
Secy. to the Govt. of India.

Office Supdt. Govt. Printing.—No. 7041 L C.—4-2-71.—200.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Government House on Friday, the 10th February 1871.

PRESENT:

His Excellency the Viceroy and Governor General of India, K. P., G. M. S. I., *presiding.*

The Hon'ble John Strachey.

The Hon'ble Sir Richard Temple, K. C. S. I.

The Hon'ble J. Fitzjames Stephen, Q. C.

The Hon'ble B. H. Ellis.

Major General the Hon'ble H. W. Norman, C. B.

Colonel the Hon'ble R. Strachey, C. S. I.

The Hon'ble F. S. Chapman.

The Hon'ble J. R. Bullen Smith.

The Hon'ble F. R. Cockerell.

The Hon'ble J. F. D. Inglis.

The Hon'ble D. Cowie.

The Hon'ble W. Robinson, C. S. I.

CIVIL COURTS' (BENGAL) BILL.

The Hon'ble MR. COCKERELL moved that the report of the Select Committee on the Bill to consolidate and amend the law relating to the District and Subordinate Civil Courts in Bengal be taken into consideration. He said that although several changes in the details of the Bill had been proposed by the Select Committee, yet the measure retained its original character of a purely consolidating enactment aiming at no material alteration of the substance of the existing law. In thus limiting the scope of the proposed enactment, it was not to be supposed that the legislature intended thereby to affirm that the Civil Courts as now established were, in regard either to their constitution or present jurisdiction, as efficient as under existing circumstances they could be, or that no substantial change was expedient or practicable.

Most persons who had experience in the matter and had given to it much careful thought were agreed that our present system of judicial administration was extremely defective; and many valuable suggestions embracing a complete

reconstruction of the system had been made from time to time by those who were most competent to advise the Government on the subject.

But the defects to which he had adverted were not peculiar to any one province or the territories subject to any one Local Government; and their remedy could only be applied through a much wider and more comprehensive measure than a Bill purporting to deal only with the Civil Courts in Bengal.

As a first step in a general scheme for increasing the efficiency of our judicial administration, it was desirable that the entire law by which the present system was regulated should be set forth in a readily accessible and intelligible shape. As regards the Bombay Presidency, the Panjáb, the Central Provinces, Oudh, British Burma and Coorg, this had been already effected by the passing of the several Courts' Acts relating to those territories; but in Bengal and Madras, as the law now stood, it was no easy task to ascertain the precise legal basis of the present constitution and jurisdiction of the Civil Courts in those Presidencies. In illustration of this, he might refer to the great difficulty which he knew that his hon'ble and learned friend (Mr. Stephen)—himself an experienced lawyer—found, when his attention was directed to the question of the improvement of the existing judicial agency, in tracing and welding together the piece-meal legislation from which the Courts derived their present constitution and jurisdiction; and he might further point to the schedule as indicating the fact that the substance of the Bill, consisting of only thirty-eight sections, was at present distributed over no less than thirteen different enactments.

The alterations of the existing law contemplated by the amended Bill were confined for the most part to the supply of those omissions which presumably originated in the disjointed and unconnected form in which the provisions of that law had been from time to time enacted.

There was no corresponding provision in the original, to section ten of the amended, Bill. That section had been introduced for the purpose of applying the general provisions of the Bill to the Civil Courts in certain non-regulation districts of Lower Bengal.

As these Courts practically discharged their judicial functions in subordination to the High Court, in the same manner as the Civil Courts of the Regulation districts, they could not conveniently be excluded from the operation of the proposed Act. At the same time the section had been so framed as not to curtail the latitude accorded to the Local Government by the existing law in regard to the establishment of such Courts.

An omission in the original, in regard to the subject of section 18 of the amended, Bill had been supplied by the transfer thereto of the provisions of Act IX of 1844, for determining the local limits of the respective jurisdiction of Subordinate Judges, where two or more such officers were appointed to the same district. The provision had been extended to meet the case of two or more Munsifs' Courts established within the same division of a district.

Under the existing law, the jurisdiction of a Subordinate Judge commenced at the pecuniary limit at which the Munsif's jurisdiction ceased, namely, one thousand rupees.

To enable a Subordinate Judge, therefore, to adjudicate in any case of which the subject-matter in dispute was within that amount, it was necessary to invest him with the powers of a Munsif. The effect of section 19 of the amended Bill was to avoid this necessity by giving to the Subordinate Judge power to try suits of any amount within any division of a district in which for the time being there was no Munsif.

Appeals from the orders of Munsifs must, as the law now stood, be preferred in the District Court, and could only be tried by the Subordinate Judge on reference from the District Judge. In many revenue districts there was no resident District Judge, and the District Court of such district was amalgamated with the District Court of some other revenue district in which the Judge resided.

In such cases, in order to have the appeal tried in the Court of the Subordinate Judge in the revenue district in which the litigation commenced and in which all the parties thereto resided, the appellant must prefer his appeal in the Court of the remotely located District Judge, who thereupon referred the case for trial to the Subordinate Judge of the district in which the original proceedings in the case took place.

To avoid the public inconvenience and delay occasioned by this procedure, the Bill empowered the High Court, with the approval of the Local Government, to direct appeals from the orders of Munsifs to be preferred direct to any Subordinate Judge instead of to the District Judge.

Section 24 contained a verbal alteration designed to convey a clearer expression of the meaning and intention of the corresponding provision of the original Bill. That provision was an exact transcript of section 15, Regulation IV of 1793, which applied to Lower Bengal, and clause 1, section 16, Regulation III of 1803, which extended the former enactment to a portion of the territories under the Government of the North-Western Provinces. By

Regulation VIII of 1795, a special rule was introduced into the Benares Division, to meet cases in which the parties to the suit might be of different religious persuasions; but this rule was abrogated by Regulation VII of 1832, and it was therein enacted—

"Whenever, in any civil suit, the parties to such suit may be of different persuasions, when one party shall be of the Hindú, and the other of the Muhammadan persuasion, or where one or more of the parties to the suit shall not be either of the Muhammadan or Hindú persuasions, the laws of those religions shall not be permitted to operate to deprive such party or parties of any property to which, but for the operation of such laws, they would have been entitled. In all such cases the decision shall be governed by the principles of justice, equity and good conscience" * * * *.

The apparent deduction from the provisions of these different enactments, taken collectively, was—and he might here remark that the decisions of the Courts on this question pointed to the same conclusion—that the Courts were to apply the Muhammadan law only when both the parties to the suit were Muhammadans, and the Hindú law where both the parties were Hindús, and in all other cases were to follow the rule of equity and good conscience.

The section had now been framed so as to give effect to this construction of the law on the subject.

To section 27, a detailed specification of the different classes of proceedings which might be transferred thereunder had been added. A general power of transfer of proceedings pending in the Court of a District Judge was given by the present law; but it had been held that a merely general provision of this sort was practically almost inoperative, as no proceedings held under any special law, which by the express terms of such law were cognizable only by the District Court, could be diverted therefrom under the authority of an indefinite power of transfer.

The section had consequently been amended in accordance with this view.

Lastly, sections 35 and 36 had been so amended as to save the power of intervention by the Local Government in the cases to which those provisions had reference.

The practical effect of these clauses as they now stood was to substitute the general control of the Local Government, over the Judges' action in regard to the appointment and removal of the ministerial officers of the Civil Courts, for the appellate authority heretofore exercised by the High Court.

This provision was viewed with strong disapprobation by a very high authority, whose opinion would necessarily have great weight with the Council, and the Committee had consequently gone very carefully into the grounds of the objection which had been raised.

It was urged that the proposed enactment involved a grave alteration of the existing law and was likely to prove detrimental to the interests of the public service.

In the opinion of the Select Committee the provision which had been objected to was in perfect accord with the present state of the law on this subject. The principle on which this Bill had been framed was adherence to the spirit and intention, if not always the exact substance, of the existing law, and it was believed that there was nothing in these sections which involved any deviation from that principle.

The earlier Regulations in regard to ministerial officers gave full powers in respect to their appointment and removal to the heads of the offices in which they were employed.

By Regulation V of 1804 this power, as regards ministerial officers receiving a monthly salary of not less than ten rupees, was resumed. The appointment and removal of the chief ministerial officers was reserved to the Governor General in Council; and in the case of the intermediate class of ministerial officers, those functions were delegated to the Sadr Adálat.

By Section 7, Regulation VIII of 1809, the power of appointment and removal of all except the lowest class of ministerial officers,—*i. e.*, the class whose monthly salary was less than ten rupees—was transferred to the Provincial Court of Appeal; and on the abolition of that Court in 1832, its functions devolved upon the Zila or District Judge.

Thus it appeared that, previously to 1804, and again subsequently to 1832, the absolute power of appointment and removal of the ministerial officers of the Civil Courts was by law vested in the District Judge.

In practice, the High Court at Calcutta had always exercised appellate authority in these cases. A memorandum of the cases in which that Court had received appeals from the orders of the District Judge had been obligingly furnished to Mr. Cockerell by the Registrar. It showed that, from the time of the Court's establishment to the end of 1868, one hundred and forty such appeals were heard, and in thirty-five, or one-fourth of the total number, the orders of the Judge were set aside.

In some of these cases the appellants were officers receiving a monthly salary of less than ten rupees, whose employment was, as had been stated above, by law at all times dependent solely on the will of the head of the office to which they were attached; in others, the appeal was preferred by candidates for public employment whose claims had been rejected in favour of other applicants for some vacant post.

At a time when the expediency of devising some plan for the relief of the High Courts from the excessive appellate business of an unimportant character which, under the present system, devolved upon them, to the detriment of the efficient and economical administration of justice, was so generally acknowledged, it seemed obviously to be contrary to the interests of the public service that a practice, which tended to the occupation of the valuable time of the Judges in dealing with such petty cases as he had just described, should be suffered to continue.

Moreover, MR. COCKERELL thought much was to be said in favour of the provision of the Bill on the ground of the expediency of strengthening the hands of the District Judge in the control of the officers of his own Court and of the subordinate Courts. It was well known that the conduct of these officers largely affected, and necessarily so, the local administration of justice, and he thought that the security for the good conduct of such officers depended in great measure on the strength of the local control.

There could be no doubt but that the maintenance of discipline was greatly prejudiced by the action of a distant controlling authority, which operated so as to create an indiscriminate right of appeal against the orders of the local functionary.

For these reasons he was very strongly of opinion that the provision of the Bill in this matter was correct and should be maintained. The principle on which it rested was the only intelligible one by which the division of the controlling functions of the Local Government and the High Court could be regulated.

There were no other points calling for special remark. He had already explained that the measure was not to be regarded as finite, or in any way pledging the legislature to the approval or permanent maintenance of the present status of the Courts of civil judicature, but for the limited object which it had in view, he had every confidence that the Bill, if passed into law, would be found useful and complete.

The Hon'ble MR. CHAPMAN was glad to find his Hon'ble friend admitted that this Bill was to be considered of a temporary nature. MR. CHAPMAN much wished that Mr. Cockerell had seen his way to deal with the measure in a more general and comprehensive manner.

It was barely two years since the Council legislated for the Civil Courts of Bombay; we were now providing for those of Bengal; and the requirements of Madras in this respect would shortly come under consideration. He believed there would be no great difficulty in enacting a law for the regulation of all the Civil Courts in India under the jurisdiction of the several High Courts. The existing constitution of these Courts was everywhere nearly similar. In all three Presidencies there was the District Judge with two classes of officers of lesser jurisdiction under him; and there were, finally, Her Majesty's High Courts over all.

Such being the condition of affairs, it did seem to him advisable that there should, as far as possible, be no diversity in the relations of the several Governments towards their respective High Courts especially in matters relating to patronage and discipline. If, for example, in the case of Bombay, the Legislature had declared it to be expedient that the appointment of all Subordinate Judges should vest in the Executive Government, it surely did not seem consistent to say that in Bengal the Judges were to have the patronage. Then, again, if in Bombay a University degree was held to be a qualification for office, why should this standard be ignored in Bengal? MR. CHAPMAN might go on repeating points of difference even in the matter of nomenclature, but he thought he had said enough to shew that the present Bill could not be looked upon as final and complete.

The Hon'ble MR. STEPHEN wished to make a few remarks with reference to the observations of the Hon'ble Mr. Chapman, and also to add a few words to the very complete explanation given by the Hon'ble Mr. Cockerell of the several provisions of the proposed Act. He did not think that his two Hon'ble friends were speaking of the same thing when one admitted, and the other accepted with satisfaction, the admission, that this Bill was not complete. The Hon'ble Mr. Cockerell meant to say (and MR. STEPHEN certainly agreed with him) that he was desirous that the public should understand that it was not the intention of those who introduced this measure that it should be taken as ratifying and approving the existing system of Civil Procedure and the existing system of our Civil Courts, which, of course, was intimately connected with that procedure. No one could

have studied the subject without seeing that, although it was difficult to provide a remedy, it was easy to observe the defects of the present state of things. He had no right to dogmatize on the question how those defects might be set to rights; but he could state with some confidence, his conviction that they never would be set to rights until they were fully understood, and that a great step towards their full comprehension was made by stating the law in a plain and unmistakeable form. So much for what had fallen from the Hon'ble Mr. Cockerell.

He apprehended that this was not what the Hon'ble Mr. Chapman meant when he said that the Bill was not to be taken as complete, but that he intended by that remark to express his regret that a general Civil Courts Bill for the whole of British India, or at least for the whole of the Regulation Provinces, was not introduced. MR. STEPHEN'S answer to that was that the project was too ambitious. The difficulty of producing any measure of the kind which would give satisfaction in its arrangement to all the Local Governments was one which would be very well estimated from the observations which fell from the Hon'ble Mr. Chapman himself, because he had pointed out in his observations several differences which existed between the system of Bengal and the system of Bombay. The fact was that in every one of the presidencies a system prevailed slightly different from the systems of the other presidencies. The differences were not perhaps very important in themselves, but they related to topics on which there would be most prolonged and animated discussion if any question were raised about them. The arrangements now in existence in Bombay were arrived at some time since, and were enacted into law in 1869. The arrangements which at present existed in Bengal had also been arrived at after great discussion very recently. And the reason why he for one would not advocate having one general Act on the subject was that he did not wish to revive those discussions, which would entail a great waste of time. There was another reason besides this. He hoped that ultimately the Indian Statute Book might be divided into Parts corresponding to the Local Extent of the Acts, many of which had to be local in their extent because under the Indian Councils' Act the local legislatures had not power to pass them. There would be the Acts relating to Bengal, the Acts relating to Bombay, the Acts relating to Madras, the Acts relating to the North-Western Provinces, and the Acts relating to the Non-Regulation Provinces in separate collections of very small volumes, and there would be the general Acts relating to the country at large. That was the scheme on which the greater part of our consolidation measures had gone,

and he thought the Council would agree with him that it was a scheme which had considerable recommendations. These Courts Bills were in his opinion emphatically local, and each ought to go into the collection of Acts referring to the province to which it related. Besides this no one said that the administration of civil justice was on any thing like the footing on which we would wish to see it. If it was not on that footing, it was far more easy to have a Civil Courts Bill for each province by itself, because, then, alterations could be made with much greater ease, and with less disturbance of the whole system. It might be said if the law is in such an unsatisfactory condition, why consolidate it at all? His answer to that was—in order that we might know what we were about. In this way you did know what you were about: you had a distinct plan on which to work. If you had no such plan, your alterations would either be sweeping and made in the dark, or else they would be slight and technical, making that which was already technical and difficult to understand, much more technical and difficult to understand. Moreover, when you undertook so large a subject as the alteration and reform of the judicial system of an empire like this, it was necessary to go by steps and proceed with great caution. There were many consents to be obtained, there were many separate Governments to be consulted to whose opinions the greatest deference was due, and sanction must be received from home. All that implied a necessity for great delay. It was much better, while we were about it, to secure what was an undoubted advantage so far as it went.

Mr. Stephen might, however, make some remarks on the topic alluded to by the Hon'ble Mr. Cockerell, in order to show how very necessary the present measure was for the purpose described. The Bill as it stood had at all events the merit of giving in thirty-eight sections a perfectly clear account of the Civil Courts of Bengal, and any one who became a Civil Servant of the Bengal Presidency after the passing of this Act, would have nothing more to do, if he wanted to know what the Civil Courts were, than to read this Act. Now, he would just point out, by reference to the schedule of Acts and parts of Acts to be repealed, the kind of process which a person would have to go through at present if he wanted to get authentic information regarding the Civil Courts of Bengal. First, he would have to go to the year 1793, and to two Regulations, large parts of which had been repealed and amended and re-amended, when he would find that two bits of Regulation III of 1793 and one bit of Regulation IV of 1793 still remained in force, and that these bits, which would not strike anybody as being of any great importance, were the real foundation of the present judicial system of Bengal. A part of Regulation III of 1793 defined the jurisdiction of the Zila Courts, and was law to this

day. A part of Regulation IV of 1793 was also the foundation of the Civil Procedure of those Courts. When the student had found out how much of these two Regulations had not been repealed, he would have made the first step towards a general theory upon the subject. These Regulations, however, applied only to the zilas of Lower Bengal, and to the cities of Patna, Dacca, and Murshidábád. The student would next come to the year 1795, and find two more Regulations of which certain portions were unrepealed, and when he discovered what they were, he would find that a similar system applied to the cities of Benares, Mirzapúr, Gházípúr, and Jaunpúr. From 1795 he would go to the year 1803, and would find a similar couple of Regulations relating to the Provinces ceded by the Nawáb Názim of Bengal to the East India Company, and then he would have to consult some historical work to find who the Nawáb Názim was and what Provinces were ceded by him. Then he would have to go to the year 1805, which extended the Regulations to the Conquered Provinces situated within the Doáb and on the right bank of the Jamna and to the territory ceded by the Peishwa. In short, he would have to go through a prolonged course of reading, before he could discover what Civil Courts existed in Bengal. In practice of course no one or hardly any one would take all that trouble. Practically people learned the system by practice and conversation, but he believed the consequence of that to be that the minds of many persons continued throughout their career to be in a confused and uncertain condition on the whole subject. That was a considerable evil in a country like this, where it was absolutely necessary to put young men with little professional experience and training, to the discharge of very important and arduous duties; and therefore it would be a great convenience, if they were enabled to get the necessary information without much trouble.

These were the considerations which had led to the framing of this Bill in its present form. As to the details, they had been so fully stated by the Hon'ble Mr. Cockerell that it was not necessary for him to trouble the Council with any further remarks on the subject.

The Motion was put and agreed to.

The Hon'ble Mr. Cockerell also moved that the Bill as amended be passed.

The Motion was put and agreed to.

BROACH TALUQDÁRS' RELIEF BILL.

The Hon'ble Mr. Chapman moved for leave to introduce a Bill to relieve from incumbrances the estates of Taluqdárs in Broach. He said that the

provisions of the Bill he proposed to introduce were identical with those contained in the Oudh Act passed as recently as September last.

The persons for whose benefit this measure of relief was intended were five in number. They were descendants of the ancient Rájpút family, who were the former proprietors of Gujarát, and some of whom were forcibly converted to Muhammadanism at the time of the conquest.

It was not necessary for MR. CHAPMAN, on this occasion, to enter on the question as to whether it was just and politic on the part of Government to shield from utter ruin the ancient landed aristocracy of this country, and to prevent their estates being swept away by the action of our Courts. In the present instance the Government must be distinctly understood as not committing themselves to any general policy on the subject The idea of protective interference of this kind originated in Bombay, and a local Act was passed for the benefit of the Ahmedábád Taluqdárs. It had been deemed expedient to extend the same kind of relief to the Broach Taluqdárs, whose circumstances were precisely similar and whose estates were situated in the adjoining Collectorate. The Government had already promised to advance the sum requisite to clear these estates from incumbrances in the same manner as had been so successfully done in the case of the Ahmedábád Taluqdárs. The Council were now asked, as a special case, to give the Government the necessary legal authority.

Colonel the Hon'ble R. STRACHEY said, although he had no intention of moving a negative, he desired to take the first opportunity of objecting entirely to legislation of this character. The Hon'ble Mr. Chapman had told the Council that he was not on the present occasion about to discuss the policy of the measure. But COLONEL STRACHEY thought that the only ground on which such a measure should be brought forward was that its policy was such as the Government approved; and if the Government approved of its policy, it would be in a position at some future time to explain it.

The Hon'ble MR. ROBINSON said he viewed with very great regret the extension of the policy of the Oudh Taluqdárs' Act. There was a case in the Madras Presidency where the proprietors of some very badly managed zamíndáris had asked the Government to advance twenty lákhs of rupees for the purpose of bolstering up their badly managed zamíndáris. He thought there was no doubt that the Oudh legislation was leading zamíndárs to look forward to Government help to relieve them from difficulties which were not caused by

the action of our Courts, but by their own dissolute and irregular conduct. The Courts were not to blame for such results, and he therefore viewed with very great regret any attempt to extend the legislation that had taken place in regard to the Oudh Taluqdárs. He had not seen this Bill until a few hours before the meeting of the Council, and he understood that it was not allowable to raise objections to a Bill at this stage; he was not prepared, therefore, to enter fully into the question, but had only made the few observations that occurred to him at the time.

The Motion was put and agreed to.

CONSOLIDATED CUSTOMS ACT AMENDMENT BILL.

The Hon'ble SIR RICHARD TEMPLE moved for leave to introduce a Bill for the further amendment of the Consolidated Customs Act. He said that, as the Council would remember, that Act was passed in 1863, and from time to time various amendments in the details had become necessary. On the present occasion three amendments were proposed, which he would explain in the briefest possible form. As the Council were aware, the Government of India was empowered by section 23 to prohibit the importation or exportation of any particular class of goods. Doubts had arisen as to whether that authorised the prohibition of the importation or exportation of goods by land. It was very necessary that those doubts should be removed, and he therefore proposed to insert the words "by land or by sea, or both by land and by sea."

Again, in the Calcutta Bonded Warehouse there was a very important rule, that when any person lodged goods in the Warehouse he received a certificate which was transferable by endorsement. We proposed to extend that rule to the Presidencies of Madras and Bombay.

The third amendment proposed was this. Certain parts of India, especially Bombay, had become what were called entrepôts of commerce, that was to say, goods were imported into these places and then again re-exported. Of course such goods had paid import-duty; but when they were re-exported, a drawback was allowed. That was to say, the import-duty was refunded to the importer, a certain portion being reserved as a security to the State. Well, it became, as experience showed, of great importance that goods once imported in order to be re-exported should be easy of identification, and also that the Government should have the power of specifying what those goods should be. We, therefore, now proposed to enumerate the classes of goods which could be so re-exported. Also we proposed that the proportion of duty retained by the State in cases of drawback should be somewhat enlarged. This appeared necessary for securing

the just dues of the State. Three-fourths (instead of seven-eighths) would be the amount of drawback, and one-fourth (instead of one-eighth) would be retained as reserved duty.

It was possible that, when the Bill went into Committee, one or two further points would arise in which an amendment of the law might appear desirable.

The Hon'ble MR. STEPHEN was sorry that the present measure should be introduced as a mere amending Bill, because it was much better to consolidate the Acts on a given subject than to amend them piecemeal from time to time. And as the Consolidated Customs Act had already been more than once amended, it would have been better to have a comprehensive measure than to pass another amending Act. But our hands were tied in this matter, and that was the justification of this Bill. The Consolidated Customs Act contained several sections relating to the coasting trade of India. Now, there was an English Statute (32 & 33 Vic., cap. XI) the fourth section of which forbad the legislature of any British possession to bring into force any law relating to the coasting trade until Her Majesty's pleasure thereon had been publicly signified. The effect of this would be that if we were to consolidate the various Customs Acts into one, we should have to get the Secretary of State's previous consent to the measure, and before that could be obtained, there might be considerable changes in the system which we should have to administer. For the present, therefore, the consolidation measure must stand over.

The Motion was put and agreed to.

The Council adjourned to Friday, the 17th February 1871.

CALCUTTA,
The 10th February 1871.

WHITLEY STOKES,
Secy. to the Govt. of India.

Office Supdt. Govt. Printing.—No. 7563 L C.—16-2-71.—200.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Government House on Friday, the 17th February 1871.

PRESENT:

His Excellency the Viceroy and Governor General of India, K. P., G. M. S. I., *presiding.*

The Hon'ble John Strachey.

The Hon'ble Sir Richard Temple, K. C. S. I.

The Hon'ble J. Fitzjames Stephen, Q. C.

The Hon'ble B. H. Ellis.

Major-General the Hon'ble H. W. Norman, C. B.

Colonel the Hon'ble R. Strachey, C. S. I.

The Hon'ble F. S. Chapman.

The Hon'ble F. R. Cockerell.

The Hon'ble J. F. D. Inglis.

The Hon'ble D. Cowie.

The Hon'ble W. Robinson, C. S. I.

CONSOLIDATED CUSTOMS ACT AMENDMENT BILL.

The Hon'ble SIR RICHARD TEMPLE introduced the Bill for the further amendment of the Consolidated Customs Act, and moved that it be referred to a Select Committee with instructions to report in a month. He said that the Council would recollect that, at the last meeting of the Council, when he moved for leave to introduce the Bill, he had submitted, with as much brevity as was possible, the objects sought to be attained by this measure, and if there should be any other points for discussion, he thought they would be best discussed before the Select Committee, to whom he hoped the Bill would be referred.

The Hon'ble MR. COWIE said there was only one feature of the Bill to which he should take exception. He had just learnt that the Hon'ble Mover intended to place him and his colleague, Mr. Bullen Smith, on the Committee, and he would therefore confine himself at present to merely stating the objection that he had. The point was the proportion of duty which the Government should retain on the re-exportation of goods on which duty had been paid on their importation. The Government had hitherto been contented for

many years to take one-eighth of the duty, and they now proposed to take one-fourth. He objected to this increase of duty, but he would be content to discuss the point in Committee.

The Motion was put and agreed to.

BROACH TALUQDÁRS' RELIEF BILL.

The Hon'ble Mr. Chapman introduced the Bill to relieve from incumbrances the estates of Taluqdárs in Broach, and moved that it be referred to a Select Committee with instructions to report in a month. He would endeavour, in the first place, very briefly to explain the principal provisions of the Bill.

At any time within twelve months of its becoming law, the Local Government might, on an application from a taluqdár or his heir, appoint a manager. After such appointment had been notified, all proceedings pending in any Civil Court were to be barred, and the taluqdár was to be exempted from arrest. The first duty of the manager would be to issue notices calling upon all creditors to prefer their claims; and he would then proceed to determine the amount of the several debts and liabilities. One appeal would be allowed to the Commissioner of the District against a refusal or admission of a claim. After the total amount of debts and liabilities had been determined, a scheme for their settlement would be submitted to the Local Government. In the present instance, it was intended that Government should advance the requisite funds, retaining as security for repayment a lien on the estate. Eventually, the taluqdár would be restored to the possession of his unencumbered property.

Such were the main provisions of the Bill. The Bill itself was a mere re-enactment of the Oudh law, and as the provisions contained in it embodied the most recent deliberations of the Council on the subject, he presumed no exception would be taken to them.

The point for consideration was, whether there were sufficient grounds for applying this exceptional law to the case of these Broach Taluqdárs.

He had on a former occasion stated that these men were five in number. They were the representatives of the most ancient Rájput family in Western India. From the very earliest times they had been the proprietors of the soil. He admitted that, as a class, they had been improvident. They were rude, unlettered men, and had fallen an easy prey to the designing and dishonest

persons by whom they had been surrounded. The result was that their estates were heavily encumbered by mortgages, and it was calculated that a sum of nearly five lákhs would be required to clear them, which money Government had already agreed to advance.

To give the Council some idea of the gross way in which these taluqdárs had been robbed by their creditors, he would quote one or two cases reported by the officer appointed to enquire into the condition of their affairs.

1*st.*—Manaklál Bápubhái claims rupees 4,999 on a bond under which he has been in possession of land of which the annual value is now rupees 862. The original transaction dates from about 1837, and this creditor has drawn about rupees 20,000 from the estate on personal and other bonds, representing transactions of old date.

2*nd.*—Kásirám Narbhirám and Anoprám Kissendás hold a bond for rupees 3,501, under which they have enjoyed land of a present rental of rupees 840 for the last twenty years.

3*rd.*—Nandkishór Raujíbhái claims rupees 17,874 under two bonds. The original transaction dates thirty-three years back and was for rupees 8,001. He has received more than rupees 40,000 from land mortgaged in his possession, the present yearly income of which is about rupees 2,300.

It was to release these unfortunate men from the grasp of creditors of this description that special legislation was required. The majority of the creditors were strongly averse to receive payment, and give up lands that yielded them an enormous interest on the money advanced. It would be a hopelessly tedious and expensive task to take each into Court. All we asked for was power to oblige them to receive payment. Surely this ought not to be considered a hardship by a righteous creditor! A specially qualified officer would be appointed to adjudicate on these claims, and an appeal would be allowed to the Commissioner.

This was no novel experiment. The same course had been adopted, with the most beneficial results, in the case of the taluqdárs in the adjoining Collectorate of Ahmedábád. There, 180 villages and 469 estates were brought under the operation of the Bombay law, with claims against them to the extent of nearly 24 lákhs. By a return dated as far back as 1867, he (Mr. Chapman) found that 57 villages and 228 estates had already been restored to their owners, freed from encumbrances. It was in consequence of the marked success which attended these proceedings that the Government were induced to take the

Bombay Act as a model when passing the Oudh law, and to promise to advance the requisite funds to relieve the Broach Taluqdárs. It was to enable them to carry out this promise that he now introduced this Bill. He did not know that they would have consented to the measure had it not been for the special circumstances of these men, and the fact that they had already promised to advance the funds.

He had been thus particular in guarding against saying anything that might be understood as committing the Government to any opinion on the general question, for the very simple reason that he was ignorant of their views on the subject.

But he desired to take this opportunity of emphatically stating it as his individual opinion that perhaps one of the greatest wants of the day was a general law to provide for the relief of encumbered estates.

If he had his way, he would empower the Governor General in Council to apply a law similar to that now under consideration to any class of ancestral proprietors whom he might consider worthy of such protection. A proviso might be made, limiting the application of the law to estates of a certain value, and which had been in the possession of the same family for a certain period of years. He had heard it stated as one of the principal objections to such a project, that it would have the effect of depreciating the value of the security of landed property throughout the country. He did not attach much weight to this objection. As regards the past, creditors like those it was proposed to deal with under this Bill ought, supposing them to be honest, to be only too thankful to get their debts paid promptly; while, as regards the future, people who made advances on property of this description would know the conditions under which they did so.

When his Hon'ble friend Mr. Strachey introduced the Oudh Bill, he made the following remarkable statement. He said—

He did not intend to defend this measure on economical grounds, but even on those grounds much might be said in its favour; for he believed that, if it was certain that a thing was politically inexpedient and wrong in any country, it was impossible that that thing could in that country be at the same time economically right, whatever it might be in some other country under different conditions."

These were, in his (MR. CHAPMAN'S) humble opinion, words of the highest wisdom. He wished not only Hon'ble Members of this Council, but every officer engaged in whatever capacity in the work of administration in this country

would take heed of them. We were too prone to set up a rigid standard of what we believed to be theoretically sound principles, and having done so, to apply these principles indiscriminately, and without regard to their being suited to the requirements of the country, or to the sentiments of the people. Judged by what occurred in the North-Western Provinces in 1857, he believed no policy that the Government had ever adopted had been more unpopular than that in accordance with which they had passively looked on while the ancestral lands of ancient proprietors had been wrested from them by the action of our Civil Courts.

The Hon'ble MR. COCKERELL said that the primary objection to the motion of his hon'ble friend (Mr. Chapman), as it seemed to him, was that the adoption of this Bill was inconsistent with the action taken by the Council only a few months ago when the Oudh Taluqdárs' Relief Act was under consideration.

It would probably be within the recollection of those members who served on the Select Committee to which that measure was referred before it became law, that the whole case of these Broach Taluqdárs was then under consideration, supported by a strong recommendation from the Government of Bombay that the Bill then before the Council should be applied to these persons.

That proposal was then deliberately rejected, and the Hon'ble Member (Mr. Strachey) who had charge of the Oudh Taluqdárs' Bill, when moving the adoption of the Report of the Select Committee, said, in especial reference to the rejection of that proposal, that—

"He did not deny that strong political reasons for similar interference might exist in some cases in other provinces, and on more than one occasion, lately, the Government had endeavoured to assist the heads of ancient families, to whom the people looked up as their natural heads, with the object of relieving them from their difficulties. A law, however, which might be applied generally or arbitrarily at the will of the Executive Government *to save landholders from the consequences of their own improvidence, would hardly be justifiable.*"

In the position thus taken by the Hon'ble Member to whom MR. COCKERELL had just referred, in regard to this matter, he entirely concurred, and had not the exceptional character of the Oudh Bill and the inexpediency of any general extension of its operation been thus practically acknowledged, he should certainly not have voted for the passing of that enactment.

It would be said, perhaps, that this Bill involved no *general* extension of the principle of the Oudh enactment, as it was intended to apply only to a very few persons. But, he asked, if this Bill became law, in what cases could

the legislature hereafter consistently decline to grant a similar measure of relief? There was nothing in the case of the Broach Taluqdárs, so far as we were informed, that distinguished them from a large number of other embarrassed chiefs and landholders distributed over every province of the empire.

The hon'ble Mover of the Bill had dwelt solely on the antiquity of the race of these Taluqdárs and their misfortunes, but he had not told us that they were extraordinarily influential, or that there were any political considerations applying to their case which would take it out of the ordinary category of distressed landholders and put them on a footing similar, as regards their special claims to relief, to the Oudh Taluqdárs.

He (MR. COCKERELL) must say that he regarded the extension of this sort of special legislation with great apprehension; he entertained a very strong conviction that the proposed measure was inconvenient, and he could not consequently give his vote for the reference of the Bill to a Select Committee.

The Hon'ble MR. ELLIS said that the remarks that had fallen from the Hon'ble Member who spoke last, in reference to what took place when the Oudh Taluqdárs' Bill was before the Select Committee, induced him to say a few words upon those remarks, as his impression as to what took place in Committee was not the same as that of the Hon'ble Mr. Cockerell. Had it been decided there that no general measure of the character which the Hon'ble Mr. Chapman advocated was in any case desirable, MR. ELLIS would certainly not have given his adhesion to that decision; but his belief was that the Committee reported in favour of confining the Act to the Oudh Taluqdárs for the reason that, whereas there must be differences of opinion on the general question whether a Bill empowering the Government to deal generally with such cases was desirable or not, there could be no difference of opinion with regard to the extension of the principle to the Oudh Taluqdárs, because the Government was pledged to the measure; and therefore, in order to ensure unanimity, the question was confined in that Bill to the Taluqdárs of Oudh, and to them alone. He did not therefore conceive that the Hon'ble Mr. Cockerell was justified in his inference that the Council, or even the Select Committee, had within the last six months decided against the propriety of a measure such as was now proposed being extended to the Taluqdárs of Broach. The Hon'ble Mr. Cockerell had also objected that there was no special ground in this case to justify the application of a general principle which he condemned. But MR. ELLIS thought there were such special grounds, not altogether dissimilar from those which existed in the case of the Oudh Taluqdárs; because the Government had virtually promised to intro-

duce a measure of this kind, or at least to do what would have the effect of this measure. Enquiries had been carried on in detail by the local authorities, and after reference to the Government of India it was decided by the Government to advance a sum of money to clear off the encumbrances, and there was a distinct and implied pledge that relief would be afforded. It was found impossible to give this relief without having recourse to legislation, and legislation was the necessary consequence of the pledge thus given or implied. Nor did he admit that there were no other reasons in this case. As had been stated, these families were amongst the most ancient of Gujarát; and with regard to what had been said as to political influence, he knew that there was a general feeling of sympathy in their favour. The encumbrances on their estates, in some cases at least, had been brought about, not by the improvidence of the owners, but by the action of our Civil Courts. He would not enter into details that could hardly interest the Council; but in one case the impoverished condition of the present holder was entirely attributable to long and worrying suits which had been carried on through a combination of dishonest persons (of whom he was sorry to say one was a vakíl connected with the Courts) to foist a supposititious child upon the family as heir to the Thákurship. The case resulted in several parties being sentenced to rigorous imprisonment, and in that instance, at all events, there could be no doubt that it was not the improvidence of the holders of the estate, but the action of our Courts alone, which brought about the embarrassed condition of the estate.

He would not refer at length to the general question opened by the Hon'ble Mr. Chapman, because, as there were special grounds in this case, it was not necessary to urge the expediency and policy of some such measure as the Hon'ble Mr. Chapman advocated. But if such a measure was deemed by the Government, or a majority of the Government, to be a desirable one to introduce into this Council, he could only say that it would have Mr. Ellis' most hearty support. He did not mean to say that we should recklessly enable all holders of land to escape from the consequences of their improvidence by special measures in their behalf, but there was a sufficiently numerous class to whom such legislation would be appropriate, just and expedient. We were apt to overlook the effect of a strict application of our laws and regulations when brought to bear on old families and old estates in this country, and to forget that the holders of these estates were not like the holders of landed estates in Europe—a people brought up under a system of law such as we would administer here. They were the immediate descendants of men who had been accustomed to assert their rights by a process which we had most rigorously

and properly put down, and although at some future period—very distant it might be—it would be quite proper to apply general principles, deemed to be right in more advanced countries, it would be premature to apply them now to such a state of things as still existed in many parts of India.

The Hon'ble MR. STEPHEN thought it his duty to make a few observations upon this matter, because, contrary to his expectations, it appeared to him that this debate had taken what might prove to be a very serious turn indeed, and was opening out a question which it was quite impossible for the Council to discuss at present. He was prepared to support this particular Bill on the ground stated by the Hon'ble Mr. Ellis—which he thought was conclusive in itself—that the Government had given what might be considered a distinct pledge to see these particular five persons out of their difficulties. Now, whether that pledge was or was not wisely given, was a question which he need not now discuss; it had been given, and having been given, it must be redeemed. He looked upon the act of the Legislative Council on this occasion as analogous to a private Bill introduced in the House of Commons in order to get over a special technical difficulty, and for no other purpose whatever. He thought that any one who would take the trouble of looking through the file of papers connected with this proposal, would see that great difficulties would arise in enforcing, through the ordinary agency of the Civil Courts, the effectual redemption of these estates. It would be extremely expensive; it would lead to no good results, and would greatly delay the settlement of the matter. On the other hand, if the course were adopted of passing this Bill, he believed that the matter would be brought in a short time to a satisfactory issue. The whole transaction stood on the same footing as that of the Oudh Taluqdárs; for in that case, before the Council was asked to legislate, that which amounted to a pledge had been given. That pledge had to be redeemed, and the object of the Oudh measure was to enable the Government to redeem its pledge in the cheapest and most effectual manner. He regretted that the present measure, so limited in its application, affecting as it did only five persons, and which appeared to him, as he said before, in the light of a private Act of Parliament, should be made the occasion of a discussion on a very wide subject. He would himself carefully abstain from making any remarks on that subject, beyond protesting, as strongly as he could, that this measure involved the Government in no liability whatever to carry out such a general scheme as Mr. Chapman had suggested. After saying that he was not going to break through the rule which he should wish to prescribe to others, MR. STEPHEN would not state his views on the general question of interfering between debtor and creditor where land was made the security for

the debt. But he could not help making one or two remarks in answer to the statements made by Mr. Ellis. Mr. Ellis had stated his belief (and MR. STEPHEN knew that the belief was a popular one) that the misfortunes of these Taluqdárs were directly due to the action of our Civil Courts; and the illustration he gave was this :—A particular person had become involved in great difficulties, because a certain vakíl got up a history of a supposititious child, and declared him to be the true heir to the property of that person, and invoked the aid of the Civil Courts to establish the claim, and thus involved the owners of the estate in great expense. No doubt the fraud of the vakíl, which appeared to have been properly dealt with by the Criminal Courts, was the cause of the impoverishment of these persons; but to say that, because the vakíl had committed perjury and other crimes, the Civil Courts were to blame, was to say quite a different thing. He did not see how such a view could be at all compatible with the administration of justice. If the Civil Courts were to be held responsible because people committed fraud and perjury, you might as well shut up the Civil Courts altogether. There was no country in the world in which litigation did not give rise to more or less fraud, but the Courts were not answerable for it. He might add that, although he fully perceived the weight of some of the remarks made by Mr. Ellis on the subject, and although he could quite understand that it might not be desirable to enforce in this country the ordinary rules with regard to taking land in execution, now accepted in Europe, he thought there was a good deal to be said on the other side. We must recollect that we must choose between two things. We must either have a legal system under which people were made to pay their debts, or we must have no law and no means of enforcing the payment of debts: and he did not suppose any one was prepared to advocate such a state of things in this country. He could not understand how any regular Government could exist anywhere unless effectual security was taken to enforce the maxim that a man was bound to perform his contract. If a man would be extravagant, or extremely improvident, he must suffer for it.

There was another question connected with the subject, which would require separate consideration. Although it was important that every one should pay his just debts, it was quite open to argument whether or no you should allow ancestral land to be taken in execution; for it was easy to imagine a case in which, according to the practice and habits of the people, the owner had little more than a life-interest in the estate. If a man were only a tenant for life, no one would consent to lend money on the security of the estate, beyond the value of his life-interest in it. No doubt it was very unjust to take from the children what the father had no right to spend, and this was done if

what was substantially a life-estate was taken in execution absolutely. If however the Government of India undertook absolutely to protect against himself every landholder in the country, they would have to keep them in tutelage. To put forward such a proposal as a general scheme for the government of this country appeared to him more bold than wise. He could imagine no measure which it would be more undesirable to discuss incidentally and so as to hold out vague hopes to the landholders of India, which, if indulged, would probably be disappointed. He would confine himself, in regard to the particular matter before the Council, to saying that this was a very unimportant Bill, standing on its own particular merits, affecting the properties of only five persons; pledging the Government to nothing, and not requiring the Council to form any opinion of any kind on any general principle. Whether the Government might think it necessary to discuss a broader measure of this kind, and what course should be taken on such a matter, was a question upon which he would rather reserve his opinion.

Colonel the Hon'ble R. STRACHEY said that, when leave was asked to introduce this Bill, he stated that he was opposed generally to asking the aid of the legislature in the manner proposed by the Bill, but he also said that the only ground on which, in his judgment, legislation of this kind could be justified was that of policy. He should also state that he had thought it right to make those remarks at that time, because he was not in possession of any of the facts which had induced the Government to allow this Bill being laid before the Council. All that was stated on the subject was to be found in the Statement of Objects and Reasons appended to the Bill, which merely said that there were five Taluqdárs in Broach who were heavily in debt, and that the Bombay Government desired the Bill to be passed. Not a word more was said on the subject. Not having been himself on the Select Committee on the Oudh Taluqdárs' Bill, and knowing nothing of the subject, and no papers on the subject having been placed before the Council, he was wholly ignorant of the grounds on which the measure was based. But after what had been explained this morning as to the actual state of things, he had no difficulty in saying that in his opinion the policy which the Government had accepted was a safe and correct policy; that there were reasons for allowing the introduction of this Bill, and if possible, having it passed. He continued to think that there were objections of a general character to legislation of this kind, which set aside the operation of the ordinary Courts of the country. But while this objection should be considered, it was perfectly right to consider what were the inducements to take an opposite course. And this question arose—What was in effect the policy which induced

the Government, or which induced him, to support this Bill? And he said without any doubt at all that the policy was this, that the very first duty of the Government in this country was to see that justice was done to its subjects. He thought it was impossible for anybody who had heard the statement made by the Hon'ble Mr. Chapman regarding the position of these unfortunate men, not to be satisfied that the greatest injustice had been done them. There was no question in the present case of forcing men to pay their debts: what had been done was to force them to pay their debts ten times over. COLONEL STRACHEY said there could be no policy more justifiable than one that was calculated to prevent a continuance of such a state of things. The Bill, in his opinion, would more correctly have represented its true nature, if it had been described as a Bill to remove these Taluqdárs from the tyranny and legalized injustice of the Civil Courts, and place them under a Court which would really do them justice. On these grounds he felt that he had a perfect right to support the Bill. The substance of the Bill, apart from its being special and exceptional, was, he believed, perfectly satisfactory. He thought, further, that it was his duty to say that such consequences as we had heard described today in relation to these Taluqdárs having occurred in a country which had been nearly three-fourths of a century under British rule, were not at all creditable. That difficulties should have arisen in the case of the Taluqdárs of Oudh—a country which had then been just released from an abominably bad Government—one might reasonably have expected. But that proceedings of the sort described should have taken place in any portion of British territory was certainly very remarkable; the circumstances were such as appeared to him to call for the most serious inquiry on the part of the Government, and whatever measures were necessary to put an end to this state of things for the future should in his opinion be taken. It was not for him to say what those measures should be, but in his judgment, it was the duty of the Government of India to see that a remedy, if possible, should be provided.

The Hon'ble SIR RICHARD TEMPLE said he quite concurred in deprecating the extension of this discussion into subjects which were really not before the Council. As had been justly shown by the several speakers who had preceded him, the question before the Council merely related to a limited number of Taluqdárs. Of course, he presumed that, when hon'ble members carried the discussion into a broader range, what they meant was that every one of these cases of special legislation was apt to form a precedent, and undoubtedly it did form a precedent. Then the real question further arose, was there any danger from these precedents being followed? The danger was that the prece-

dent might be abused. If there was any danger of such abuse arising, of such measures being carried to an injudicious extent, then it would be pre-eminently his duty to raise his voice against any such measure, and to see what the financial consequences might be. But he submitted that there was really no danger of such a precedent being followed to an injudicious extent. The precedent could not be followed without the introduction into this Council of a special Act. That in itself was a very considerable check; for what did such a proceeding involve? It meant this, that there must be a recommendation from the Local Government; then the concurrence of the Government of India; then a Bill must be introduced and criticised: and if all that did not constitute a sufficient check on injudicious proposals, he did not know what did. Well, it might be that amongst the measures taken would be one for advances from the General Treasury for the relief of improvident landlords. Under such circumstances as he had described, a recommendation of the Local Government ought, he thought, to be favourably considered. After that, the Exchequer would demand that the security for the advance to be made should be actually sufficient, and that a proper rate of interest should be provided. If that were done, the parties would be most welcome to the advance from the General Treasury, and the advance thus made, it would be followed by great political advantages, without any risk to the State.

The Hon'ble Mr. Strachey said that repeated reference had been made today to the Act passed a few months ago for the relief of the Taluqdárs of Oudh. He himself had charge of that measure and to a certain extent, perhaps, he had therefore been specially responsible for it. He thought therefore that he ought to say something with regard to the present measure, which, as the Hon'ble Mr. Chapman had explained, was identical with the Oudh Taluqdárs' Relief Act. The Hon'ble Mr. Cockerell appeared to think that the Government generally, and Mr. Strachey himself in particular, were guilty of some sort of inconsistency in supporting the present Bill, after what he had said regarding the Act for the relief of the Taluqdárs of Oudh. Now, he must not only deny that there had been any such inconsistency, but he must affirm in a positive way that the present measure was in all respects completely consistent with every thing said by any member of the Government when the Oudh Taluqdárs' Bill passed through its various stages. The whole upshot of what was said came to this, that the Government did not think it right that any general measure should be passed, which should give to the Executive Government any power generally or arbitrarily to advance money to save landlords from the consequences of their own improvidence; but that, in peculiar and

exceptional circumstances, strong political reasons might exist to make such interference proper. He himself, when the Oudh Bill was passed, distinctly said that similar reasons might exist in other provinces. The Hon'ble Mr. Cockerell had said that this very question of the Broach Taluqdárs was before the Government when the Oudh measure was under discussion. That was perfectly true; but it was also true that the question was never discussed in any way by this Council whether relief ought or ought not to be given to the Broach Taluqdárs. And as the Hon'ble Mr. Ellis had said, the Executive Government had actually promised, before the Oudh Bill was passed, to advance the money necessary for saving these ancient families from ruin: consequently, it was no exaggeration to say that, so far at least as the Executive Government was concerned, the present measure had virtually been resolved on before the proposition was made to pass the Oudh Bill into law.

The Hon'ble Mr. Stephen had said that the Government having given a pledge to advance this money, the propriety of that pledge need not be discussed by this Council. Although it might be true that there was no necessity for such discussion, the question of the policy of interfering in this case was one from which, in his (MR. STRACHEY'S) opinion, the Government had no reason whatever to shrink. He for his own part thought that circumstances could hardly be conceived in which it would be more right for the Government to interfere, than the circumstances which existed in the present instance. Although the particular circumstances of Broach and Oudh were widely different, in reality the justification of the measure of relief that was now proposed was identical in principle with that adopted in the case of Oudh. In both cases it was considered politically desirable to save the ancient families of the country from ruin, and the Government in both cases came to that conclusion for very special reasons. The Hon'ble Mr. Stephen had referred to the operation of the Civil Courts, but Mr. STRACHEY was satisfied that under a proper system of administration and under a proper system of law, such things could by no possibility have come to pass as those which had come to pass in Broach. Mr. Chapman had shown that for many years past a system of what he might call organized plunder had been going on under the protection of our own Courts, and he entirely agreed with the remarks made by the Hon'ble Colonel Strachey, that it was most discreditable to our administration that such things had happened. The Hon'ble Mr. Chapman had referred to several of the cases that had occurred. MR. STRACHEY saw another case, which he was not sure that Mr. Chapman mentioned, in which, many years ago, a vakíl of the Civil Courts managed, MR. STRACHEY did not know how, to get the uncontrolled management of the most

important of these estates. During this time, the vakíl apparently contrived, not only to get nearly the whole profits of this estate permanently in his own hands, but he made the unfortunate proprietor, who seemed to have had no voice in the matter, enter into bonds to the extent of thousands of rupees. This man, to use the words of the official report, had in one generation raised his family from poverty to affluence. As far as appeared from the papers, there was no reason to suppose that any debt at all really existed. This man got the estate in his possession, and simply plundered it for twenty or thirty years, and in that plunder he was assisted by our own Courts. He saw another case which was far from creditable to our administration. An estate was for twelve years in possession of a minor. It was clearly the duty, he presumed, of our own officers (it was so, at any rate, in the parts of the country with which MR. STRACHEY was acquainted) to look to the interests of this minor; but apparently his property had been dissipated to such an extent that his own agents did not know what land he could claim, nor by what title. It was perfectly true that it was very discreditable that all this should happen; but the mischief had been done, and the mischief could not be undone without legislation. There was no question here of bolstering up improvident landholders, or injuring the interests of creditors. The real question was, should the Government be given the means of performing an act of justice and saving these estates from the clutches of plunderers? It seemed to him that the greatest stickler for the application of so-called economical principles ought to have no sort of doubt, that it was infinitely better that these important estates should be properly, honestly and well managed for a time and be restored hereafter to their owners, than that this wretched work of plunder should go on and these ancient families perish.

The Hon'ble MR. COWIE said that he was content to vote for the introduction of this Bill solely on the ground that a pledge had been given, as the Hon'ble Mr. Stephen had said, and not on account of the principle involved in the measure, which he was inclined to say was an erroneous one. The Hon'ble Mr. Chapman and the Hon'ble Mr. Strachey had referred to some cases, which, MR. COWIE was bound to say, were not the worst that he had ever heard of. It might be important to rescue these estates from the "clutches of plunderers," but he had never heard of any such measures being taken for the relief of ancient landed proprietors in any other part of Her Majesty's dominions. It might be through his ignorance of Broach, but he could not see that there was such a difference between the circumstances and the landed interests of two countries as to make such a measure justifiable in the one and not in the other.

The Hon'ble MR. CHAPMAN said with reference to the remarks that had fallen from the Hon'ble Mr. Stephen and the Hon'ble Sir Richard Temple, he desired to explain that his connection with this Bill had been simply this. Owing to his connection with Bombay, he was requested by the Government to introduce it, and he confidently appealed to His Lordship and the other Members, whether, in doing so, he did not scrupulously abstain from saying anything that could be construed as committing the Government to any opinion on the general question of policy. But as an individual Member, he considered it not only his right but his duty to express, with the utmost freedom, his opinion on such general questions; and he altogether declined to accept any censure for having done so.

The Hon'ble SIR RICHARD TEMPLE disclaimed any intention of casting censure on the Hon'ble Mr. Chapman.

The Hon'ble MR. STEPHEN also said that he had no intention whatever of censuring the Hon'ble Mr. Chapman.

The Motion was put and agreed to.

The following Select Committees were named:—

On the Bill for the further amendment of the Consolidated Customs Act—The Hon'ble Messrs. Stephen, Chapman, Cowie and Robinson and the Mover.

On the Bill to relieve from incumbrances the estates of Taluqdárs in Broach—The Hon'ble Messrs. Stephen, Cowie and Robinson and the Mover.

The Council adjourned to Friday, the 24th February 1871.

CALCUTTA,
The 17th February 1871.

WHITLEY STOKES,
Secy. to the Govt. of India.

Office of Supdt Govt Printing —No 7621 L C.—23-2-71 —200

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Government House on Friday, the 24th February 1871.

PRESENT:

His Excellency the Viceroy and Governor General of India, K. P., G. M. S. I., *presiding.*

The Hon'ble John Strachey.

The Hon'ble Sir Richard Temple, K. C. S. I.

The Hon'ble J. Fitzjames Stephen, Q. C.

The Hon'ble B. H. Ellis.

Major General the Hon'ble H. W. Norman, C. B.

Colonel the Hon'ble R. Strachey, C. S. I.

The Hon'ble F. S. Chapman.

The Hon'ble J. R. Bullen Smith.

His Highness Sarámade Rájáhác Hindústán Ráj Rájendra Srí Mahárájádhiráj Siváí Rám Sing Bahádur, of Jaypúr, G. C. S. I.

The Hon'ble F. R. Cockerell.

The Hon'ble J. F. D. Inglis.

The Hon'ble D. Cowie.

The Hon'ble W. Robinson, C. S. I.

INDIAN CONTRACT LAW BILL.

The Hon'ble MR. STEPHEN moved that the Bill to define and amend the law relating to Contracts, Sale of Moveables, Indemnity and Guarantee, Bailment, Agency and Partnership be re-committed. He wished to make a few observations on the condition of this measure. The Statement of Objects and Reasons was dated so far back as July 1867, so that the Bill having been received from England as drawn up by the Indian Law Commissioners some time before, had now been four years, in one shape or another, under the consideration of the Indian Government and the Secretary of State, respectively.

He had to make two remarks on this subject; first, he wished to explain how the delay arose; and secondly, he wished to point out why it was necessary

that the Bill should be re-committed, which would involve some additional delay before the matter was finally disposed of.

The Bill was published with its Statement of Objects and Reasons in July 1867. It was forwarded in the usual way to the Local Governments for their opinions, and the receipt of these opinions occupied a considerable time throughout the year 1868. There were certain provisions in the Bill which gave rise to considerable discussion and some difference of opinion between those who were responsible for the Bill in this country and those who framed the Bill in England. Much time was lost in this discussion and in the reference of the matter to the Secretary of State; and when MR. STEPHEN came out here, about a year and a quarter ago, he found that the Bill was still before the Committee. The Committee continued their investigation of the subject during the early part of the year 1870; and after mature deliberation they agreed to a report which was transmitted to the Secretary of State. The Bill was further considered at Home, and the answer on the subject to which the report of the Select Committee referred was not received till a very short time ago. That explained how the delay with regard to the present Bill had arisen. He thought, however, that it was now expedient to proceed with the Bill. If it were passed into law, it would greatly shorten and simplify one of the most important parts of the law.

He now came to the question, which might naturally be asked, why should there be more delay in the passing of this Bill? There were several obvious answers to that. It might be sufficient to mention one which was conclusive in itself. Many of the members of the Select Committee which originally sat on the Bill had either left or were on the point of leaving the Council. Of course, the Committee which he hoped would finally discuss the matter would be composed in part of the remaining members of the former Committee, but still it would be impossible that the Bill could be passed without giving those who would be responsible for it an opportunity of fully considering its provisions. The opportunity might be taken of making alterations, not so much in substance, as in arrangement and definition.

We were now not very far from the time when the Government would have to leave Calcutta, and it was too late to pass the Bill into law before its return to Calcutta. The necessary alterations would be maturely considered in the course of the summer, and the Bill might be finally disposed of in the winter. He hoped that it would not be necessary to trouble the Local Governments for further opinions on this Bill, inasmuch as the opinions already

received would fill a considerable volume, and provided ample materials for the full consideration of the subject.

The Motion was put and agreed to.

PENSIONS BILL.

The Hon'ble MR. COCKERELL moved for leave to introduce a Bill to consolidate and amend the law relating to Pensions. He said that there was on the Statute-book at the present time a considerable number of Regulations and Acts relating to this subject. These enactments contained much that was now obsolete, and much in the nature of administrative rules and instructions as to the mode of disbursing pensions, which would be more conveniently and appropriately left to be put in operation by means of executive orders.

The leading principle of the main provisions of the law was, that as the bestowal of pensions and similar allowances was an act of grace or State policy on the part of the ruling power, the Government reserved to itself the determination of all questions affecting the grant or continuance of these allowances; and the cognizance of claims relating thereto by the Courts of Judicature was, as between the grantor and grantee, absolutely barred.

This principle governed the law which applied specifically to the Regulation Provinces of the Bengal and Madras Presidencies, and which was also practically in force in the Non-Regulation Provinces. In some parts of the Bombay Presidency also, namely, the Dekhan, Khandeish and Southern Mahratta Divisions, claims against the Government in the matter of pensionary grants and allowances were declared to be not within the cognizance of the ordinary Courts of Judicature; but in other parts of that Presidency, in the absence of any such legal restrictions, the Courts had assumed a jurisdiction expressly denied to them throughout the rest of British India.

It was thought that this state of things should not be allowed to continue, and that it was expedient to assimilate the law as regards this portion of the Bombay Presidency to that which prevailed in all other parts of the Empire. There were no exceptional circumstances which called for the exercise by the Civil Courts, in any particular province or provinces, of a jurisdiction which, under the operation of a principle of universal application, was not accorded to them elsewhere.

The opportunity, moreover, for rectifying the omission to extend to the Bombay Presidency generally the provisions of the law regarding pensions had now arrived, the law on this subject having been specifically referred to in this

Council as one of the branches of the general scheme of consolidation which was now in progress.

The object of the present Bill, therefore, was to re-enact, in a consolidated form, the operative provisions of the law in regard to the grant of pensions and similar allowances, and to apply the consolidated enactments to the whole of British India.

The Motion was put and agreed to.

INDIAN REGISTRATION BILL.

The Hon'ble MR. COCKERELL asked leave to postpone the presentation of the report of the Select Committee on the Bill for the Registration of Assurances.

Leave was granted.

The Council adjourned to Friday, the 3rd March 1871.

CALCUTTA,
The 24th February 1871.

WHITLEY STOKES,
Secy. to the Govt. of India.

Office Supdt Govt. Printing —No. 7835 L. C.—3-3-71.—200.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Government House on Friday, the 3rd March 1871.

PRESENT:

His Excellency the Viceroy and Governor General of India, K. P., G. M. S. I., *presiding.*

His Honour the Lieutenant Governor of Bengal.

The Hon'ble John Strachey.

The Hon'ble Sir Richard Temple, K. C. S. I.

The Hon'ble J. Fitzjames Stephen, Q. C.

The Hon'ble B. H. Ellis.

Major-General the Hon'ble H. W. Norman, C. B.

Colonel the Hon'ble R. Strachey, C. S. I.

The Hon'ble F. S. Chapman.

The Hon'ble J. R. Bullen Smith.

His Highness Sarámade Rájáháe Hindústán Ráj Rájendra Srí Mahárajádhiráj Siváe Rám Sing Bahádur, of Jaypúr, G. C. S. I.

The Hon'ble F. R. Cockerell.

The Hon'ble J. F. D. Inglis.

The Hon'ble D. Cowie.

The Hon'ble W. Robinson, C. S. I.

PENSIONS' BILL.

The Hon'ble MR. COCKERELL introduced the Bill to consolidate and amend the law relating to Pensions, and moved that it be referred to a Select Committee with instructions to report in two months. He said that when this subject was last before the Council he explained how far the Bill was, as regards its local application, in extension of the present law.

A reference to the schedule would show that the Bill purported to effect at the same time a very considerable curtailment of enacting matter by the substitution of twelve sections for about an equal number of entire Regulations and Acts.

The Bengal Regulations, which constituted the bulk of the schedule, contained a large number of detailed provisions in regard to such matters as the grant of certificates, the identification of pensioners, periodical payments, audit

of payments, and the keeping of records, the specific enactment of which, inasmuch as it excluded change of practice without recourse to fresh legislation, must always be inconvenient for administrative purposes, even where the enactment applied only to a particular locality.

But the inconvenience would be greatly increased if we were to attempt to re-enact the Bengal rules on these matters for application to the whole of India. On this consideration, the details of the Bengal Regulations, to which there were no corresponding provisions in the law in force in Madras and Bombay, had been omitted, and section 12 of the Bill, which gave a general power to the local authorities to make rules on such matters, had been substituted therefor.

The Hon'ble MR. ROBINSON wished to make a few remarks with respect to the proposal to repeal the Madras Act relating to pensions. He thought the Bill should not be allowed to affect the Madras Presidency. He quite admitted that Bombay evidently required legislation in this direction, and the only surprise was that some such legislation had not already been resorted to. Possibly the Bill consolidated the Bengal law on the subject; but it did not usefully do the same as regards the Madras Act. He had carefully examined its provisions, and it certainly omitted several things which were useful and proper in the Madras Act; for, in fact, the circumstances under which these gratuities had arisen, the terms and the manner in which they were inherited and participated in, were so very different, that he thought that such legislation could be far better done by the Local Governments, and that Bombay and Madras could best legislate for themselves in this matter. At all events, he thought it very undesirable to alter a law which was satisfactory and complete, and wherever we had local legislation of that kind he would not disturb it. The Madras law was complete and exceedingly simple, and was contained in three sections of one Act (two of which consisted of only a few lines), and did not require any consolidation or alteration as a whole. At the same time, he should not be prepared to say that, in legislating for Bombay, we ought to carry out all the provisions of the law as regards Madras. That would be a very sweeping change; and if the law of Bengal was in the state which this measure indicated, he would leave it alone.

In Madras no Civil Court could, he observed, take cognizance of any case which affected, either as regards the Government or a private individual, the right to continuance or inheritance of any pension, or the right to participate therein. Civil Courts could only take cognizance of such claims if the Chief Secretary, by certificate under the orders of the Government, referred the parties

to the Civil Courts. That certificate was in fact very seldom given, and generally only to get rid of some litigious persons; so that, practically, claims to pensions were entirely adjudicated upon by the Madras Government. Section 4 of the Bill would very materially alter a procedure which he thought suited the Madras Presidency very well.

Under these circumstances he thought the Council ought to exempt the Madras Presidency from the operation of this Bill, and in consolidating the law omit that Presidency from the schedule.

The Hon'ble MR. CHAPMAN desired to make a few remarks on the provisions of this Bill, so far as it would materially affect the existing law in certain parts of the Bombay Presidency. In Bengal, Madras, and a large portion of Bombay, a law already existed, expressly excluding the Courts from all jurisdiction in the matter of assignments on the revenue. But in Gujarát and the Konkan, which constituted our earliest possessions, for some reason that he was not acquainted with, no exemption of the kind had been specifically made. The consequence was that claimants had exercised the right of taking Government into Court with a view to enforcing the disbursement of these payments. Section 3 would have the effect of barring this right, which, as he had already said, existed in no other part of India, and which had been admitted in these two provinces simply in the absence of an express provision to the contrary.

MR. CHAPMAN considered the opportunity afforded by this Bill had been rightly taken advantage of for assimilating the law. It did seem to him most unreasonable that Government should be liable to be taken into their own Courts, and compelled against their judgment to continue payments which had their origin under the Native Government, and which were granted from motives of religious and charitable sentiments and State policy. Many of these assignments were of a totally unauthorized character. The Government would have been perfectly justified in summarily disallowing all that were not supported by good and clear titles. In the interest of the public the utmost that could fairly be expected was that these claims should be dealt with in an equitable and reasonable manner, and this the Government had done under the rules which had been framed for the purpose. In point of fact, the large majority of these claims had already been disposed of throughout the Presidency, and as he had said, except in two provinces, the Courts had no jurisdiction to interfere with what had been done.

In these two provinces, owing to the absence of an express prohibition, the Courts had interfered, and a recent decision of the High Court shewed, he thought, the necessity for protecting Government against such inter-

ference. The case he alluded to was that of one *Harishankar Tikam* v. *The Collector of Kheda*, in which the High Court ruled, in special appeal, that where a charitable grant in connection with a temple had been proved to have been enjoyed by the incumbent and those under him for more than thirty years, the Government were bound to continue payment in perpetuity. If this was really the law, then, he believed, the Council would agree with him, that the sooner it was altered the better. It seemed to him to amount to this. If any one had subscribed to a charitable institution or to a Missionary Society for thirty years, he and his heirs and successors were bound to do so for ever and ever.

Of course it was not intended by this Bill to put Government in a better position than the ordinary public in respect to obligations they themselves had voluntarily incurred for consideration received. But he thought it his duty to explain, in the most explicit manner he could, what the effect of the Bill would be on a considerable class of claimants in Bombay. He had done so at the earliest opportunity in order that those who might consider themselves aggrieved by the proposed measure might have time to represent their objections to his Lordship and the Council.

The Hon'ble MR. STEPHEN had only one word to say in answer to a remark which fell from the Hon'ble Mr. Robinson, that this was a matter to be dealt with by the local legislatures. MR. STEPHEN wished to observe upon that, that no local legislature would be legally competent to deal with the matter, because it affected the jurisdiction of the High Court; consequently the subject must be dealt with by this Council or not at all.

The Hon'ble MR. COCKERELL thought that the objection taken by his hon'ble friend (Mr. Robinson) might be conveniently dealt with by the Select Committee to which he hoped the Bill would be referred. There was no intention of curtailing, by the proposed legislation, any power heretofore reserved to the Madras Government by local statutes in regard to claims relating to pensions.

Section 3 of the Bill embodied the important principle which underlay the entire law on this subject, and which was to the effect that no adjudication by the Civil Courts could affect the liability of the State as to the payment of pensions and similar allowances. This might be said impliedly to let in litigation regarding pensions, the issue of which would not affect such liability.

But as no decree or order of a Civil Court directing the payment of a pension to any particular person could be enforced against the Government, the practical result of the present state of the law in Bengal, which was maintained in the Bill, would seem to be not materially different from that of the

law in force in the Madras Presidency, namely, that suits regarding the payment of pensions could only be effectually prosecuted with the consent, whether expressed or implied, of the Government.

If, however, in the judgment of the Committee, it was necessary to retain the precise terms of the Madras local statutes to guard against any change of the practice so long in force in that Presidency, there would be no objection to making such alterations of the Bill as would secure that object.

The Motion was put and agreed to.

INDIAN REGISTRATION BILL.

The Hon'ble MR. COCKERELL also presented the report of the Select Committee on the Bill for the Registration of Assurances.

EMIGRATION BILL.

The Hon'ble MR. CHAPMAN presented the report of the Select Committee on the Bill to consolidate the law relating to the emigration of Native labourers.

SESSION COURTS BILL.

The Hon'ble MR. STEPHEN moved for leave to introduce a Bill to amend the law relating to Courts of Session. He said this was a matter rendered necessary by circumstances which had come to the notice of the Government in consequence of an application from the North-West as to the alteration of the Districts of the Sessions Judges of Benares and Mirzapúr in consequence of the abolition of the Judgeship of Jaunpúr. Certain technical irregularities had been discovered which he thought it would be well to preclude. He did not propose to enter into the matter more fully at present; it would require a very short Act, which could be speedily dealt with. He therefore now only moved for leave to introduce the Bill.

The Motion was put and agreed to.

The following Select Committee was named:

On the Bill to consolidate and amend the law relating to Pensions—The Hon'ble Messrs. Stephen, Chapman, Inglis and Robinson and the Mover.

The Council adjourned to Thursday, the 9th March 1871.

CALCUTTA,
The 3rd March 1871.

WHITLEY STOKES,
Secy. to the Govt. of India.

Office of Supdt. Govt. Printing.—No. 8113 L. C.—9-3-71.—300.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Government House on Thursday, the 9th March 1871.

PRESENT:

His Excellency the Viceroy and Governor General of India, K. P., G. M. S. I., *presiding.*

His Honour the Lieutenant Governor of Bengal.

The Hon'ble John Strachey.

The Hon'ble Sir Richard Temple, K. C. S. I.

The Hon'ble J. Fitzjames Stephen, Q. C.

The Hon'ble B. H. Ellis.

Major General the Hon'ble H. W. Norman, C. B

Colonel the Hon'ble R. Strachey, C. S. I.

The Hon'ble F. S. Chapman.

The Hon'ble J. R. Bullen Smith.

His Highness Sarámade Rájáhée Hindústán Ráj Rájendra Srí Mahárájádhiráj Siváí Rám Sing Bahádur, of Jaypúr, G. C. S. I.

The Hon'ble F. R. Cockerell.

The Hon'ble J. F. D. Inglis.

The Hon'ble D. Cowie.

The Hon'ble W. Robinson, C. S. I.

FINANCIAL STATEMENT.

INCOME TAX BILL.

The Hon'ble SIR RICHARD TEMPLE in moving for leave to introduce a Bill for imposing duties on Income, said,—" MY LORD, I have now to present the Budget of British India for the year 1871-72, this being the twelfth annual statement presented since the introduction of our existing financial system.

I shall commence by adverting to the form in which the statement has been drawn up.

It will be recollected that in my exposition delivered before this Council on the 2nd April last, I explained the alteration made in the exhibition of the account of Government with the Guaranteed Railway Companies. By that alteration we showed on one side the amount of guaranteed interest payments,

and, on the other side, the amount of net traffic receipts, instead of the former method, whereby only one item was shown, namely, the guaranteed interest less the net traffic receipts. In other words, we exhibited the account gross on both sides, instead of the expenditure net on one side. Well, the Secretary of State has determined, after considering all our representations in favor of the alteration, that we must still continue to exhibit the account as before by its net result on the expenditure side, that is, by one item, namely, "guaranteed interest less net traffic receipts." I have accordingly to exhibit the guaranteed interest net in the statement itself. But at the foot of the statement there are appended figures showing the account gross in the method explained in my last financial statement, which method was, I believe, approved generally by this Council and by many others interested in this portion of our finance. Thus the important objects set forth in my last exposition will still be fully attained.

This modification will make no difference in the ultimate result of the figures as regards surplus and deficit. But it will make a difference in the totals of receipts and expenditure, that is, the deduction of an equal amount from both sides of the account. The grand totals, therefore, of the statement I shall make to-day will not admit of exact comparison with those of my statement in April of last year. But the figures of surplus and deficit on this occasion and the last will be strictly comparable.

Also I explained in April last why we had transferred the canal water rent from the heading of public works receipts to the heading of land revenue. We have since determined, on a further review of all the circumstances, to exhibit these irrigation receipts separately. I trust that this growing item, now nearly half a million annually, will prove of general interest. Its growth is indeed anxiously awaited by us, in order that there may be some appreciable off-set to the fast-accruing interest on capital outlay.

Lastly, it has been considered proper to show again under one head the entire revenue raised by stamps, whether under the General Stamp Act or the Court Fees' Act.

After this brief preface, I proceed to deal with the figures in the same order as that observed in all previous statements,—that is, *firstly*, the actual figures for the past year 1869-70; *secondly*, the approximate figures for the current year 1870-71, according to the regular estimate; and *thirdly*, the proposed figures for the coming year 1871-72, according to the budget. I shall take the figures from the combined statement for England and India in the same manner as I did last year.

I begin then with the past year 1869-70. The Council will recollect that the regular estimate for that year exhibited in my last exposition showed an anticipated deficit of income below ordinary expenditure of £625,594, or more than half a million sterling. The actual figures, however, now show a small surplus of £118,668. Thus the actual turns out more favorable than the estimated account by £744,262, or three quarters of a million. It is also slightly more favorable (by £57,796) than the approximately actual figures published in September last; this small difference being attributable mainly to the railway account. I shall explain briefly the causes of this fortunate result. The receipts of the year were taken in the regular estimate at £50,297,052; they have proved to be £50,901,081, showing a difference favorable of £604,029. The ordinary expenditure was estimated at £50,922,646. It has proved to be £50,782,413, showing a difference favorable of £140,233. The favorable difference in receipts is partly nominal, arising from certain items being shown gross which in the estimate were shown net; but chiefly real, arising from unexpected recoveries in the Military Department by the sale of stud cattle and by the adjustment of the value of supplies to the Abyssinian Expedition and to the civil departments and administrations, and also from a variety of small increases under several heads of revenue,—to wit, land revenue, income tax, customs, salt, stamps. The difference favorable in expenditure arises chiefly in the military heading, the savings from the reductions of expenditure proving somewhat greater than had at first been hoped for; partly also from the amount of unpaid dividends and unclaimed allowances being more than was anticipated; partly, further, from various smaller savings in civil branches,—to wit, land revenue, opium, administration departments, post office, and police. In a word, the largest difference on the whole account (£315,116) is attributable to the unexpected additional military recoveries and to the favorable financial effect of the military reductions which had been ordered.

Thus ends the financially eventful year 1869-70. The original estimate showed a small surplus of £52,650. As the year wore on, a large deficiency, arising partly from a fall in opium and depression of trade, was anticipated. Various measures detailed in the last financial exposition were taken to avert the threatened deficiency. Still, as proved by the regular estimate, fears were entertained up to the close of the year that the deficit, though greatly diminished, would not be altogether avoided. The result, however, as shown by the actuals, proves that the original estimate has been more than fulfilled, the actual surplus being £118,668.

This result is owing partly to management, and partly to fortune. The management consisted in the measures adopted within the year by the Supreme

Government and in the economics carried out by the local Governments. The fortune consisted of a variety of adjustments and recoveries, for the most part unestimated, bettering the account, on the whole, to the net extent of £866,580. I am constrained to make this remark because it seems to have been supposed in some quarters that we brought out the surplus lower than it ought to have been by a variety of debit adjustments made at the last moment! Now we certainly had to make a variety of adjustments (all of which were completed before the production of my last statement to this Council), thereby clearing once for all a number of long-standing and unsettled items from the public accounts. Some of these were on the credit, others on the debit side. After setting the latter against the former, the result was a net advantage to the account, as just set forth. Thus the unavoidable operation was not, as has sometimes been supposed, at all unfavorable to the final out-turn, but actually favorable!

Further, if I have apprehended rightly, it seems to have been understood in some quarters that the favorable result just described shows that the measures taken during that year by the Government of India were, after all, not necessary, or that there may be difference of opinion as to their necessity. I will therefore declare, for the last time, that those measures were both just and necessary, and that there is not—there never has been—any difference of opinion in the Government of India on the subject. I showed in my last exposition that those measures bettered the account by 1½ million sterling. Had it not been for them, therefore, there would have been a deficit of nearly 1½ million, instead of the small surplus which I have the pleasure to announce to-day. It seems to me that this is as strong a financial justification of those measures as could reasonably be expected.

Further, I understand it to have been held in some quarters that the occurrence of this small surplus, instead of deficit, for the past year 1869-70, does, to some extent, cut away the ground from under the measure of the increased rate of income tax for the present year 1870-71. I can admit, however, nothing of the sort. It is true that amidst an accumulation of many reasons for the enhanced rate of income tax, the anticipated deficit of 1869-70 was one. But the disappearance of this one reason does not at all affect the other and graver reasons. Among these reasons were the deficits of preceding years, unfortunately beyond question, evincing unsatisfactory tendencies in our finance, which tendencies could only be stopped by fresh taxation. But the principal reason lay in the condition and prospects of the year 1870-71, to which I have yet to advert. The increased income tax was imposed for 1870-71, the estimate

for which year was framed on data of its own, many of which were independent of the out-turn of the preceding year. Even if the actual figures of the year 1869-70 had been known, which was impossible, the prospect of deficit for 1870-71 would have remained unaffected in any essential degree. The surplus of one year cannot be carried over as it were to mitigate the prospect of deficit for the following year.

This brings me to the figures of the current year 1870-71. As the Council recollects, the budget showed a surplus of £163,440. The regular estimate now shows a surplus of £997,100, amounting to a difference in our favor of £833,660, of which I shall briefly explain the causes.

The receipts, omitting the net railway traffic receipts, were estimated in the budget at £49,479,585; they are now estimated at £51,048,900, showing a difference in our favor of £1,569,315. Of this increase, the main item is £1,074,519, under the head of opium. The improvement of the opium receipts arises from the price of Bengal opium having been, on the average of the year, Rs. 1,121-8, or £112-3*s*., per chest, instead of Rs. 975, or £97-10*s*., per chest, as was first estimated; also from the quantity of Malwa opium having been 38,742 chests, instead of 33,600, as was first estimated.

In my last exposition, I gave to this Council the reasons why the opium estimates had been cautiously framed,—namely, the actual fall and the further downard tendency of prices on the Bengal side and the indifferent prospects of the drug on the Bombay side. The out-turn of the crops on both sides of India has proved, however, even better than was expected; and throughout the year the advices from China have been favorable. The improvement of the Indian opium trade in China must, of course, have had its causes, which causes may be connected with the condition of the indigenous culture of the drug in China itself; but what exactly those causes are, I hesitate to state to this Council. I may have my opinion and conjectures, but I really do not know, and I have not heard of any one who does know. Those nearest to the spot and best qualified to judge have not as yet been able to explain satisfactorily. All I can say now, therefore, is that we are carefully watching every indication afforded by each fact in detail as it becomes known. But I must add that assuredly, at the commencement of the year, when the last budget was prepared, we had no right whatever to reckon on the improvement which has occurred, and no sign or fact whatever to reasonably indicate that it would occur. Therefore, this stroke of fortune does not, in the least, shake my conviction as to the prudence and propriety of the moderate estimate which was made. Nor does

it at all encourage me to relax the watchfulness and caution necessary in framing the opium estimates for the coming year.

Recently we have published a resumé of all the official information possessed by us regarding the growth of opium in China The facts therein shown regarding the quantity and quality of the Chinese drug fully bear out what I stated in my exposition of last year, to the effect that the Indian opium trade with China is threatened with a serious competition. It appears that the culture of the poppy in China expanded in the years 1866 and 1867, and that the produce obtained in the summer of 1868 was abundant, and was nearly as good in the summer of 1869. After that, reports reached us of injuries to and failures in the Chinese produce of the summer of 1870. These were corroborated by the subsequent rise in the price of the Chinese drug. Now, is there any connexion, and if so, what, between these circumstances in China and the recent rise or fall of prices of the Indian drug? I really cannot answer these questions. There may be no such close or direct influence exercised by the Chinese upon the Indian drug. It may be said that the two drugs are consumed by different classes in China. The Indian prices must be affected by the increased supply from India itself; also speculation forms an important element in the case; and our experience of Chinese opium, on any considerable scale, is as yet but short, while the information obtainable from the interior of China is often tardy and uncertain.

There remain some items of increase on which the Council may desire a word of explanation. There is an increase of £92,508 under land revenue. This is due to a considerable improvement in Madras, apparently from the realization of arrears outstanding from previous years of drought.

The increase of £141,500 in customs has accrued at the ports of Calcutta, British Burma and Madras, and not at all at the port of Bombay. This increase may, perhaps, surprise those who are not practically acquainted with the import trade. The major part of that trade, namely, the European piece goods, has not, despite large importations, been altogether flourishing, inasmuch as the sale of these important goods for the markets in the interior has not been so favorable to importers as we might have wished. It is feared that the improvement in customs is partly due to over-importation which again may be in some respects connected with the abnormal condition of the European markets during this very eventful year. We may regret that the increase of the revenue does not yet indicate a corresponding improvement in trade. But the fact that such large quantities of goods have been taken (though at somewhat low prices) is an index of the prosperous condition of the people at this moment, and affords hope for the future progress of the trade.

The £72,600 of increase in excise arises in Northern India and Madras; the harvests having been good or abundant.

The increase of £144,510 in the post office is almost wholly nominal, owing to the fuller exhibition of the charges made against the various departments of the administration for official postage.

The increase of £289,226 in miscellaneous receipts arises from a large item (£93,497) of assets of the Ameens' Fund at Bombay, long held in suspense, being credited to Government; from the current adjustments from the balances of the military and medical funds being larger than was anticipated; and from an arrear adjustment from these balances. The circumstances under which the assets and liabilities of these funds were transferred to the State, and the principle upon which the charges of each year are adjusted, were expounded in my last financial statement.

The increase of £166,775 in army receipts is owing to general augmentation under a variety of heads, such as sale of stores, malt liquor, and the like.

On the other hand, there are some instances of diminution in receipts. One important item of decrease is that of £105,000 under the head of assessed taxes. This means that the $3\frac{1}{8}$ per cent. income tax, together with some arrears of the preceding year, was estimated to yield £2,180,000, and is now estimated to yield £2,075,000. The falling off chiefly arises from the circumstances of several of the tax-paying classes in Bengal, Bombay, and Madras having been less favorable, owing to the state of trade, than was expected. When the losses in trade are remembered—when it is also remembered that the more exact assessments under the new law and under the high rate were sure to be favorable to the tax-payers, and that the enhancement of a direct tax of this sort is sure to be met with a certain degree of passive resistance,—I think that the out-turn of the tax for the year promises to be satisfactory, and to prove creditable to the several local Governments. We have constantly observed all the complaints that have been made regarding the assessment or the realization of the impost, and we have done all we could to prevent any just cause of complaint arising. We cannot venture to hope that no such cause has arisen anywhere, knowing, indeed, that in such a country as this regrettable circumstances may occur without coming to light. But it is noteworthy that on a circular being addressed by us to the several local Governments in India, inquiring whether there were any known cases of oppression or over-exaction, we received replies from all of them (except the Government of Bengal) to the effect that no such cases were known. The Government of Bengal indeed

did transmit a resumé of some thirteen cases; this number is, of course, a matter for much regret, though relatively it is not large.

Salt again shows a decrease of £72,870, which is, however, more than counterbalanced by a decrease in the charges of £82,519. Less salt has been manufactured and sold than was expected, under the special arrangements at the Sambhur Lake in Rajpootana.

Another item of decrease is that of £107,670 in the Mint receipts. Very little bullion has during the year been presented for coinage, owing to the unfavorable state of the exchanges.

A further item of decrease to be noticed is that of £129,280 in the forest receipts. This arises from the consumption of timber by the railways having been less than was expected. The circumstance proceeds really from the State railway works not having been so vigorously prosecuted as was intended. There is, from the same cause, a diminution of outlay (£51,540) under the head of forests.

There are other small differences, some more, others less, which can be seen in the general sheet, but which I need not now stop to explain. The net result is an income of upwards of fifty-one million pounds sterling (£51,048,900), exclusive of net railway traffic receipts, which amount, if compared with corresponding amounts of previous years, transcends them all, and represents the largest revenue ever yet raised in British India.

Turn we now to the ordinary expenditure of the year. That was estimated in the budget at £49,316,145; it is now estimated at £50,051,800, showing a difference against us of £735,655. The causes of this difference also I shall explain.

There is an increase of £31,498 under interest on miscellaneous accounts by reason of the decision to allow interest on deposits of the Indus Flotilla; of £51,890 under opium by reason of the crop of 1870 proving larger than was expected, and of extending cultivation; of £45,917 under post office by reason of arrear payments in England on account of the mail service; of £14,325 under political agencies by reason of the postponement from last year to this year of a payment in England for the embassy to China; of £82,647 under superannuation and retired allowances, corresponding with an increase under miscellaneous receipts which I have already explained, and arising from the payments to the pensioners of the late military and medical funds proving larger than was estimated.

These are all minor items of increase. But there are three major items on which I must bestow a few moments; they occur under the heads of miscellaneous, of army, and of railways.

The heavy increase of £414,908 in the miscellaneous heading arises chiefly from what is technically termed loss by exchange. This is calculated on an assumed, though not an actual, basis of two shillings to the rupee. We are under the obligation of providing annually a large sum in England in pounds sterling for the payments in that country on account of the Government of India. This provision is principally effected by the sale in London of bills drawn by the Secretary of State on the exchequer in India. The amount originally intended to be drawn by the Secretary of State during the year was 9½ millions sterling. The amount actually supplied during the year in England will be 9 millions, although with outstanding bills of past years we shall have to pay 9½ millions (£9,525,000) in India. Judging by the best information at our command, we estimated that the Secretary of State's bills would be sold at an average rate throughout the year of 1*s.* 11¼*d.* for the rupee, which would have involved, on 9½ millions sterling, a loss by exchange of a little more than £300,000, which was the sum provided. This of course was only a forecast of a matter on which foreknowledge was impossible. The actual supply of funds to the Secretary of State, including the specie remittances to be presently referred to, has been effected at an average rate of only a little better than 1*s.* 10½*d.* for the rupee, involving a loss by exchange of £600,000. In other words, we hoped to pay only 3·16 per cent. on the basis of the assumed par, for providing the money for discharging our obligations; in fact, however, we have had to pay 6·67 per cent. Judging by all past experience, we deemed our estimate moderate. But the great events in Europe have disturbed exchanges and caused this misfortune to us, which could not have been foreseen.

As part of the 9 millions sterling supplied during the year, we had, last August, to ship in specie from India to England about 62 lakhs of rupees (Rs. 62,10,688) or £620,000. We were informed by the Secretary of State that his bills on India were, for the moment, unsaleable in London. It therefore became immediately necessary for us to remit specie wherewith to provide the means of discharging our current obligations in England. This was accordingly done with the requisite despatch. The produce in England of these remittances was £571,812, or only a little above 1*s.* 10*d.* (1*s.* 10·09*d.*) per rupee; but the indirect effect of the operation upon the exchanges is believed to have been favorable.

A new item will be perceived in the regular estimate which was not entered at all in the budget, namely, that of allotments for provincial services, £200,000. This entry appears for the first time. It relates to the scheme set forth in our resolution of December last, entrusting to local Governments increased financial control in certain departments, the provisions of which scheme I shall presently recapitulate. In order that the local Governments may be able to inaugurate this plan successfully, and to have, as it were, a fair start, it is found most desirable to give them a special allotment of funds to begin with, in addition to the regular allotment they will receive year by year for the next and subsequent years. The regular annual allotments have been made on the basis of the budget grants for 1870-71. In fact, however, there have been savings effected in the current year on these grants, aggregating, for all India, perhaps £200,000, though the precise sum cannot be stated with certainty. Under all the circumstances, inasmuch as the savings have been effected in the current year, we have decided to make the special allotment from the resources of this year; and to fix the amount at £200,000, to be distributed rateably among the local Governments,—an arrangement which will, we hope, prove satisfactory to them.

The increase of £554,659 under the head of army has arisen partly in England and partly in India. The increase in England amounts to £361,859 and in India to £192,800. The increase in England is in overland transport charges, in furlough allowances, and for breech-loading arms. The overland transport system is a new one which is gradually developing itself, and of which it may be difficult in England to estimate accurately the cost beforehand. The increase of furlough allowances arises entirely from officers now drawing pay in England under the new system, who would under the old system have drawn larger allowances on duty in India. For the increased charge on account of the new breech-loading arms, the Government of India willingly takes the responsibility, having made urgent indents therefor.

The increase in India is due to the adjustment this year of a large sum on account of the charges for the overland troop transports defrayed in past years in India, which we had been led to suppose had been included in the home accounts. But for this arrear adjustment, the net charge for the army in India, which is even now only £72,735 more than the estimate, would have been less than was originally estimated by about £300,000. This is specially satisfactory in connection with the fact that the budget estimate for expenditure in India was for a large reduction over the preceding year.

The third item of increase is that of £319,517 under guaranteed interest on railway capital, less net traffic receipts. This arises from the net traffic receipts having fallen off; they were estimated at £2,848,470, they are now estimated at £2,530,700. This diminution, again, does not arise from working expenses having proved greater, but from traffic earnings having proved less than the anticipation.

So much for the increases. On the other hand, there is a long list of diminutions arising partly from estimates having been prudently framed, partly from savings having been effected: these range at amounts from £500 to £100,000, and occur under the heads of interest, refunds, land revenue, forests, excise, assessed taxes, customs, mint, telegraph, administrations, minor departments, law and justice, police, marine, education, ecclesiastical, stationery and printing, and allowances under treaties. If this series of savings shall be sustained by the actual account, the result will be very satisfactory. The normal ordinary expenditure for public works has been kept well within budget limits. To this has been added an assignment of £40,000, to the trustees of the Indian Museum for the completion of the building: it was found necessary to make this grant for this important public structure, in order to fulfil, as nearly as practicable, under the circumstances, the obligation imposed upon us by Act XVII of 1866, to complete the Museum building by the 23rd of the present month of March 1871.

The saving of £141,710 under railways is chiefly due to delay in taking up land for the Oudh and Rohilkhund line.

So much for the ordinary expenditure. Before quitting the current year's account, however, I must just advert to the extraordinary expenditure. For this £3,062,300, or 3 millions, were estimated to be spent, but only £1,146,800, or about 1¼ million, has been actually disbursed. The difference is largely accounted for by the unavoidable delay in prosecuting the State railway works, by reason of the pending questions relating to the gauge best suited for adoption. These questions having now been decided, we may hope to see the works more rapidly proceeded with. The extraordinary added to the ordinary expenditure makes up a total of £51,198,600, or 51⅕ millions.

Such are the figures for the current year 1870-71, so far as they are yet known; the estimate being based on the actual figures of ten months for all, and of eleven months for a few of the main heads of income, of ten months for all branches of civil expenditure, and of nine months for the Army and the Public Works Department. I must, however, remind the Council of what

has been stated in former expositions, to the effect that the figures of the regular estimate are liable to modification by reason of the facts which may come out in the course of the remaining two or three months. These months are in themselves financially very important months, and in March the whole accounts of the year are completed and adjusted. The accounts of the year 1870-71 cannot be even approximately closed for nearly six months to come,—so that, although we have omitted no precaution to obtain the best forecast now possible, we must not be surprised if the final result of the year differs considerably, even from the revised estimate now presented.

The main result now apparent is that as regards income and ordinary expenditure, the budget estimate showed a small surplus of one-sixth of a million, and that the regular estimate shows a considerable surplus of a million. On the one hand, it is observable that this satisfactory surplus is wholly due to the unlooked-for rise in opium; and that without this piece of good fortune on the receipt side, we should, apart from the special assignments for the Museum and for provincial services, have had a little less than the surplus of £163,440 originally estimated. On the other hand, it is equally observable that on the expenditure side there has been a piece of ill-fortune, namely, the heavy loss by exchange, produced by great events beyond the reach of ordinary calculation. Thus, if the argument of fortune be pressed upon us, I should reply that if there has been an extraordinary increment of a million on the receipt side, there has been also an extraordinary increment on the expenditure side; and that if the one point be set against the other, there would still be a surplus in our favor of more than half a million,—that is, a surplus somewhat above that which was originally estimated—in fact, just the amount of surplus which is necessary for safe and sound finance, and no more. This perhaps is the fairest light in which to regard the situation at this moment. And certainly, if these two items be excluded, the general conformity of the regular estimate with the budget is highly satisfactory, both as regards receipts and expenditure, and more especially as regards expenditure, which in India has been kept well within bounds.

But in regard to the (perhaps unfortunately) cardinal importance of the opium revenue to our general finance, let us for a moment consider what would have been the situation had the opium increase of £1,074,519 not accrued. Why the consequence would have been that, apart from the exceptional allotments of £200,000 to the Local Governments wherewith to begin the provincial service scheme, and of £10,000 to the Trustees of the Indian Museum, I should have to-day shown a surplus of £162,581, or almost exactly the sum originally

estimated, *viz.*, £163,440. And this circumstance does, to my mind, prove conclusively the justice and necessity of the financial measures proposed in my last exposition, and subsequently adopted by this Council for the current year.

When I say this, the mind of the Council will revert to the enhancement in the rate of the income tax. I apprehend that in some quarters it will be held that the present anticipation of a considerable surplus proves that the increased rate of income tax was, after all, not necessary; but I cannot, in the least degree, admit such an argument.

I have just explained that by one way of viewing the extraordinary circumstances of the year (which is the more favorable view for such an argument), we should only have had a moderate surplus, nearly the lowest amount compatible with safety and efficiency. By the other way of viewing the case (which is probably the more correct way), we should, without the opium increase, have had just the small surplus originally estimated. Therefore the argument, to my apprehension, turns on this question,—was the opium estimate in the budget a fair and prudent one, according to the knowledge available at the time? Has anything since transpired which may reasonably prove that estimate to have been too low under the circumstances wherein it was made? If that estimate was fair and prudent, then there is no ground whatever for impugning the justice and necessity of the enhanced income tax. When I say this, however, I by no means mean to admit that the justification of the income tax solely or even mainly rests on the opium estimate. For, even without this consideration, there were various and manifold reasons in justification of that measure.

But I consider that if the opium estimate be proved to have been reasonable, then any attack on the *financial* necessity of the enhanced income tax for the year must inevitably fail. I here advert to financial necessity, without at this moment adverting to political or other considerations. Now, what were the circumstances under which the opium estimate was framed? Let me remind the Council of the reasons adduced in my last exposition. It was then shown that there had been a heavy fall in the price of Bengal opium; that, for a whole year, the decline had been almost regular and constant; that the tendency was still downwards; that a mass of information had been received from China, indicating that the Indian drug would be subjected more and more to disadvantageous competition; that every practical authority whom we had been able to consult, both in China and India, considered that nothing but decline could be anticipated. I affirm that when our Bengal estimate was produced, it was considered not at all too low, but quite high enough in non-official circles, where practical knowledge is in this respect most available. Indeed, the most

sanguine estimate suggested to us by any one was only £122,500 in excess of that which we actually adopted. As regards the Malwa opium, the facts were almost as unfavorable. Our estimate, though realized in the end, had been a constant source of anxiety through the year. The local authorities had been constantly warning us of expected deficiency. The then prospects of the crop were not propitious. On a retrospect of the whole case, I am quite convinced that no higher, indeed, no other, estimate could have been properly framed than that which was framed; and that being so, I have only to reiterate all the arguments adduced in my last exposition, to the effect that without the income tax at the 3½ per cent. rate we must have produced a budget with a large deficit, and that therefore the imposition of that tax was a matter of financial necessity at that time.

As regards the surplus above shown for the current year, we must remember that it is only anticipated as probable, and not yet actually realized. It may even yet fail us more or less; but if it shall be fully sustained by the ultimate event, it will be most gratifying, and will occur, indeed, not at all before it is needed! In my former expositions, I have shown that although, since the establishment of our financial system, the course of our finances has been certainly in many respects, and perhaps on the whole, satisfactory, still deficit has been too frequent, and surplus too rare. Of late years, especially, while curtailing our ordinary expenditure, we have been incurring, and preparing to incur, a liberal and extraordinary outlay in improving our great national estate, for which purpose the national debt is being added to. Now—if ever—then, is the time to secure a surplus of income over ordinary expenditure. Now is the season to prove, if we can, that we possess the determination and the means for keeping our income slightly in excess of our ordinary expenditure. We had scarcely dared to hope, indeed, that so good a result would be obtained within this very year, even after all the exertions that have been made. If it be obtained, however, as now seems probable, then the circumstance will afford cause for nothing save congratulation; and we need never regret the efforts which have been made and the sacrifices which have been undergone.

But the existence of surplus for now two consecutive years, though not at all disturbing the reasons for the strong measures which have been adopted, does yet afford reasons for some relaxation of these measures in the coming year. And this remark appropriately brings me to the third part of my subject, namely, the budget for the year 1871-72 shortly to commence.

Before entering into details, I must, however, draw the attention of this Council and of all others interested in our finance to an important modification

in the form of the statement for the year 1871-72. This modification has been made in order to give effect to the financial resolution by the Government of India of the 14th December last. It will be remembered that by that resolution an increased degree of control financially was accorded to the several local Governments in India, in certain civil branches,—to wit, jails, registration, police, education, medical services, printing, roads other than military, and civil buildings. We hope that this concession will give the local Governments an additional interest in the study and the enforcement of economy in expenditure; will afford them a just inducement to supplement their local receipts from time to time by methods either most acceptable to the people, or least fraught with popular objection; will cause a more complete understanding to arise between the executive authorities and the tax-paying classes respecting the development of fiscal resources; will teach the people to take a practical share in provincial finance, and lead them up gradually towards a degree of local self-government; and will thus conduce to administrative as well as financial improvement. The hopes which I am expressing, however sanguinely or confidently entertained, are, after all, but hopes, and, like all other hopes, may or may not be fairly realized. But let all this eventuate as it may—sure I am, with certainty free from shade of doubt, that the measure is advantageous to the imperial budget of British India. For it will have the direct effect of definitely limiting, for the present, the expenditure from the general exchequer on certain important branches of civil expenditure, the very branches indeed where, from the progressive spirit of the age, the demands for increased outlay have most arisen, and would most arise, and in which, from the nature of the case, the supreme central authority is least able to check the requirements of the local authorities.

We have indeed, at the outset, inaugurated the measure by reducing the aggregate expenditure under these heads by one-third of a million (£331,038)* below the budget grant of 1870-71. This is, *per se*, something appreciable of course. But greater far financially is the advantage of setting some definite bounds to the constant growth and expansion of imperial outlay on these branches, of which the use and importance, though great indeed, are yet local rather than imperial. The more we consider the constant increases of late years in these particular headings,—the difficulty which the Supreme Government has in resisting demands which have so much inherent excellence to recommend them; the desire which we all naturally feel to co-operate, so far as possible, in meeting such reasonable requirements; and yet the impossibility

* The reduction appears, *primâ facie*, to be £ 350,000; but the share which would have fallen upon Burma (£ 18,962) has been restored, so that, after rounding the figures, the net retrenchment from all the local Governments aggregates only £ 331,038.

of meeting them unless local income can be legitimately and equitably augmented;—the more do we perceive the importance of the financial principle (irrespectively of administrative and general considerations) embodied in the resolution of December last.

And the principle is in this wise. The local Governments are to have a fixed annual allotment from the general exchequer for these particular services, and are to appropriate as local income all receipts connected therewith. They are to regulate (subject to certain general rules) all the expenditure on those services. If the existing income, namely, imperial allotment, *plus* departmental receipts, shall suffice for the requirements of that expenditure, then that is well; if it shall not suffice, then the local Governments are not to apply to the Government of India for increased grants. They must raise what they need by local taxation, or by such like means (subject to our central control) if they fairly can. But if they find that they cannot fairly manage this, then they must necessarily do without the increased expenditure. However much the necessity for doing without the increase may be regretted, there is no help for it. This is the only way of following the good old rule of cutting coat according to cloth. However important progress and improvement may be, financial safety is more important still.

I have seen it stated in some quarters that this new measure, by limiting the aggregate allotment for certain services, tends to deprive the local Governments of any benefit that may arise from increase of the revenue, and to secure all such benefit for the Supreme Government exclusively. I need hardly say that any such allegation is based on misapprehension; as if the Supreme Government had any separate domains or estates or appanages of its own, in which the local Governments had no particular concern! The Supreme Government has no interest separate from the interest of India generally, or from the aggregate of the interests of the several local Governments. The new measure, after all, deals with a part, and that a small part (about one-sixth) of the total civil expenditure. There still remains by far the greater part of this expenditure under the central control, including such branches as law and justice, the fiscal departments and the departments of general administration, as before, for all which expenditure grants are made to the local Governments. If the revenues increase, there will be benefit to these branches, whether it be in the enhancement of pay, in the expansion of departments, or in new outlay, all which benefits will be felt directly by the local Governments. If it be hereafter possible to increase the grant for public works ordinary, to whom will the increase be allotted? Why to the local Governments? If it be found practi-

cable to pay more and more interest on loans for public works extraordinary, in what territories will these works be executed? Why in the territories under the local Governments?

The Council will perceive that the total amount of allotments for provincial services, as just defined, for all the local Governments together, is set down in the expenditure side of the budget for the coming year at £4,799,300, or 4¾ millions, which amount I shall explain further presently. Meanwhile, I may observe that the total sum allotted for provincial services is thus distributed:—

	Receipts surrendered.	Assigned from Imperial Funds.	TOTAL.
	£	£	£
India	9,800	26,700	36,500
Oudh	14,700	211,300	226,000
Central Provinces	24,000	269,600	293,600
Burmah	28,600	276,500	305,100
Bengal	264,800	1,197,900	1,462,700
North-Western Provinces	110,000	635,000	745,000
Punjab	67,400	528,800	596,200
Madras	81,800	752,300	834,100
Bombay	55,300	901,200	956,500
TOTAL ...	656,400	4,799,300	5,455,700

The item opposite to "India" in the above list is for the Calcutta University and for provincial services (not including public works) in Coorg, Ajmír, and other districts of which the administration is immediately under the Supreme Government. The figures differ somewhat from those appended to the resolution of the 14th December, owing to the more complete transfer of the charge for medical services than was then proposed; to the inclusion in provincial services of the expenditure for petty construction and repairs in all departments, excepting opium and salt; to the promised additions to the grants in respect to the more stringent system of official postage; and to certain minor corrections of the figures.

The statement which I have given just now presents the total allotment to each local Government for all the services specified. Within this limit, each local Government may (subject to the general conditions under which the additional control is confided to it) distribute the amount among the several services, making transfers, if necessary, from one to the other.

These allotments have been fixed on the basis of the budget grants for 1870-71 (after the deduction of the £331,038 rateably distributed). The objections which might be urged in detail against this mode of fixing the allotments have not, indeed, been overlooked. But certainly any other method that could be devised would have stirred up controversies and difficulties which might never be determined, and which would have caused an indefinite postponement of the whole measure.

If it were urged, too, that the grants for 1870-71, having been very economically fixed, afford too low a standard for future allotments, we should reply that these grants were really as much as we could possibly afford, and that we are not likely to be able to afford more for some time to come.

In addition to these allotments, the local Governments will have the special assignment of £200,000, already explained, to begin with.

I have stated that the regulation of the expenditure in these branches is to be confided to the local Governments, subject to certain general conditions. The effect of those conditions is briefly this, that, without the previous consent of the Government of India, no new appointment above a salary of Rs. 250 per mensem is to be created, nor old salaries raised beyond that amount; that no class or grade of officers is to be created or abolished, and the pay of no class or grade of offices is to be raised; that no addition or alteration is to be made, as regards pay and allowances, in the provincial departments of any province which might lead to inconvenience in the imperial departments or in other provinces.

The principle of these conditions is that whatever be the degree of control conceded to the local Governments, as regards amount of expenditure and strength of establishments and the like, the regulation of salaries, of rates of pay, even the lowest, of allowances and pecuniary privileges, must remain with the Supreme Government. Strictness in this respect is essential. Connected by the interchange of information as the several provinces of India necessarily are, whatever affects the interests of the public servants and establishments in one province becomes known in all the others. If anything be conceded in one place, applications for similar concessions are sure to be made from other places in a manner difficult to be resisted. If pay be raised in one department, expectations of similar augmentation are apt to be created in other departments. This consideration becomes of special moment when certain departments hitherto imperial become local, while other departments continue imperial,—not, indeed, that uniformity of pay and allowances is necessary for

all departments and all establishments alike; nor even that such uniformity is essential for the same department, for instance, police or education, all over India. There may—indeed must—be variations in the several parts of India as regards system and organization; there will also be differences in prices, in values, and in such like matters; and these circumstances will lead to differences in rates of remuneration; all which the Government of India has always acknowledged and allowed for. Still, the check of the Central Government is indispensable to prevent these differences from becoming excessive and leading to financial embarrassment. It is clear then that in making these concessions to the local Governments, we have not parted with any of those powers which are needed for the preservation of financial order throughout India.

I have stated that we have made over to the local Governments the receipts arising in these particular departments. These consist, in the jail department, of the proceeds of prison manufactures and the like; in the police department, of payments by municipalities and railway companies, sale of old stores, and so on; in education, of school fees, sale of books, &c.; and in registration, of the fee proceeds. These several receipts which have been previously included in our imperial sheet are excluded from the budget I now present, and transferred to the category of local funds: they will hereafter be accounted for in the provincial statements. The aggregate is indeed considerable, and amounts to nearly ⅔rds of a million. They are, however, in their nature local, and are analogous to the funds which have been always held local, and excluded from the imperial account. They are essentially different from the imperial heads of revenue and receipt. When they are assigned to the local Governments, there is no deviation from the principles which have always governed our finances, to the effect that all heads of State revenue are held as imperial. No attempt has been made to assign to those Governments any branch of the revenues, as that would be a matter attended with difficulties into which I need not now enter. It was intended that an abstract of the estimates of the local Governments on account of provincial services should be presented to the Council with the imperial figures: this will be done in future; but it has been found possible to prepare it this year.

Before quitting this topic, however, I would venture to repeat what I stated before this Council in the budget debate of last year, namely, that too much must not, at the outset, be expected from the local Governments in consequence of any measure of this kind. After all, those Governments will have no golden road open to them, which is not already open to them in a considerable degree

at least. To secure financial benefit, either they must reduce expenditure, or improve existing receipts, or impose new taxation. Now, as regards reduction of expenditure and improvement of existing receipts, they doubtless do already make constant efforts in both these directions. It remains to be seen whether they can put forth more efforts. As regards new taxation, they may do more in that way, but great caution will have to be exercised.

How the several local Governments will deal with their respective shares in the retrenchment of £331,038 from the grants of 1871-72, and how they will provide whatever additional sums may be required for the finance of the services now entrusted to them, is more than I can say at present. It is, however, clear that they have to some extent already made up, or are making up, their quotas of the retrenchment by savings and reductions of expenditure,—a method, in my opinion, the most satisfactory of all. It would be premature to state the precise amount of such savings; but, on the figures now before me, I make out, as already said, that the said savings will probably amount in 1870-71 to £200,000, and there seems no reason why the expenditure for 1870-71 should not at least suffice for 1871-72. There will, however, be some fresh local taxation, more or less, in many parts of the country. In the Madras Presidency, as the Council knows, bills for municipal and local taxation were, a few days ago, unanimously passed by the local legislature. In the Bombay Presidency, the matter is still under consideration. In Bengal Proper, the final decision of the Government of India, approved, after full discussion, by the Secretary of State, has been communicated to the Lieutenant Governor, to the effect that land and other property are to be rated for the support of roads and education. The local Government is still in communication with the Government of India as to the best way of carrying out this decision. In the North-West Provinces, the Punjab, and Oudh, the local Governments have matured plans for provincial imposts, and Bills to carry out these plans will be immediately submitted to this Council.

The Government of India has certainly borne in mind—and we believe that the local Governments also remember—the necessity of caution and moderation in the levy of provincial taxes. We have been, and are, most averse to the imposition of any new taxation that can be avoided. It was this consideration that induced us to lower the retrenchment to £331,038. Our demand at first stood much higher; we reduced it in order that the burdens of the people might be abated, and that the local Governments might be spared the necessity of imposing any but the lightest, and most manifestly equitable, provincial taxes.

I now proceed to the figures of the budget for 1871-72.

The receipts are taken at £49,098,900, or 49 millions, as compared with the 51 millions of the year just about to close. The amounts taken for the main heads of receipt, namely, land revenue, excise, customs, salt, stamps, closely follow the regular estimate for the current year. A moderate improvement is anticipated under land revenue, salt, and stamps. Considering the favorable out-turn of the customs for the current year, which is quite as much as, or even more than, we could have expected, we have not ventured to estimate a further increase for the coming year.

As regards the state of the foreign trade of India, generally, I stated in my last exposition that 1869-70 (speaking on returns for eight months) would prove to be a year of retrogression after several years of satisfactory progression. The result has shown a decrease of 5 per cent. in value as compared with the preceding year. This reduction is, however, mainly due to a reduction in the tariff valuation, so that on the whole the real decrease was but slight. The total value of the trade is taken at 100½ millions sterling. For the current year 1870-71, there may be some improvement. The condition of the principal import, *viz.*, piece goods, has been already noticed. Among the exports, jute (fibre) continues to flourish, the yield of the last crop having been abundant. Last year there were 3,361,852 or 3⅓ millions of cwts. exported; in the current year, the export will be greater. The cotton export of 1869-70 amounted to 1⅓ millions of bales (equal to 555 millions of lbs.), being less than that of the preceding year. There seems likely to be as yet a further falling off this year 1870-71 of this staple in quantity, though not in value. We bear in mind the consequences, so important to India, likely to arise from the revived and increased production of the article in the United States of America. In 1869-70, there were 12¾ millions of lbs. of tea exported from India; this year the quantity will be somewhat less. Last year there were 36 millions of lbs. of coffee exported; this year the quantity will be greater. Last year 98,000 cwts. of indigo were exported; this year the quantity will be about the same. There are now eight months' returns in the current year available. Judging from them, we are led to anticipate that the foreign trade of the country will rise to more than 100 millions sterling in value. As regards goods, indeed there is a clear increase both in exports and imports; but there is a marked falling off in treasure. Last year 14 millions sterling of treasure were imported; this year only 4 millions were imported in the first eight months.

We have not overlooked a subject adverted to in my last exposition, namely, the remission of the export duty on Indian and Burmese rice. But, considering that there has been all through the current year an improvement

in this branch of trade, and an increase in the yield of the duties, we are not prepared, under present financial circumstances, to propose any change.

The opium estimate is taken at a little more than the amount which we are receiving for the current year, or just over 8 millions gross. The current year has indeed, as already seen, been in this respect prosperous beyond expectation. We hope that the circumstances of the time warrant us in anticipating a fair amount of prosperity for the coming year. The advices from China are favorable on the whole. The prices in both the Indian and Chinese markets are, despite fluctuations, fairly satisfactory. For Bengal, we are not able yet to announce the exact number of chests that we expect to sell, but we have 41,042 chests actually secure in our warehouses. The precise number of chests which we shall sell in 1871-72, in addition to the above stock, depends upon the number of chests which we may resolve to offer for sale in the calendar year 1872, which again depends upon the out-turn of the crop now about to be gathered. At the last moment, I regret to say that the weather in the opium-growing districts of the Bengal Presidency is reported to have been of late somewhat unfavorable to the ripening crop. The area under cultivation this year is, however, larger than that cultivated last year, and we entertain hopes that the produce may at any rate not be less than last year's crop (54,072 chests provision opium). For the chests that we may sell in 1871-72, we have assumed an average price of Rs. 1,075, or £107-10*s.* per chest. The average price per chest in 1870-71 has been Rs. 1,120-8 (£112-1*s.*) per chest. The latest sale has produced Rs. 1,169 (£116-18*s.*) per chest. On this very important point, the estimate seems to be prudent, and leaves a margin for fluctuations not now foreseen. For Malwa the duty being fixed (Rs. 600 a chest), the real point for forecast is the number of chests likely to be exported. The number in 1869-70 was 39,371 chests; that in 1870-71 will be probably 38,742 chests. We have estimated for 1871-72 as many as will bring the total number of chests (Bengal and Malwa) to 90,000,—no doubt a full number, quite up to the average of recent years. But the prospects of the present crop in Malwa are reported to us by telegraph to be up to yesterday excellent; we are selling this year a much larger provision of Bengal opium than we sold last year; and if the quantity be taken at a full estimate, still the price assumed for Bengal is apparently a moderate one. As a whole, the estimate will, I hope, be considered moderate.

The increase (£113,900) in the forests estimate allows for increased consumption of timber in the construction of the State Railways, partly counterbalanced by increase of expenditure (£65,100) on the other side of the statement.

The increase (£19,400) in telegraph arises from improved receipts on the Indo-European line *viâ* Persia and Russia, which has been working with marked efficiency throughout the year. The recent increase in the tariff of both this and the sub-marine line is to be regretted, but I fear that it will be found to have been absolutely necessary to render the continuance of the two alternative lines (so desirable for securing our communications) financially possible. At present the Indo-European line appears to be outstripping its rival in the Red Sea.

The low estimate of mint receipts is owing to the state of exchanges, which may, we fear, not recover sufficiently for much bullion to be presented for coinage. Our mints are unfortunately at present in a condition of enforced inaction.

A diminution is shown in the estimate for miscellaneous receipts, because we do not expect any such arrear adjustments as those whereby this item is swollen in the current year.

The items of decrease under the heads of law and justice, police, and education arise from the transfer of the receipts of jails, registration, police, and education to local funds in the manner I have already described to-day. All the items transferred amount to a total of £656,400.

The Post Office shows a decrease of £29,500, the receipts this year having been unduly swollen owing to some misunderstanding by the civil departments of the Post Office rules. The receipts might have been, by this time, greater perhaps than they are, had it not been for the concession to the public of carrying half a tola in weight, instead of a quarter tola, for half an anna postage. The change, however, has not caused any actual loss of revenue. This result is, of course, owing to increased number of letters. Two years ago I stated the number of covers of all kinds annually received by the Post Office in India at 70 millions. It has now grown to nearly 95 millions.

In respect to the telegraph receipts, I may observe that the reduced rate of one rupee for a message of ten words to any part of India has worked so far successfully as to cause an increase already of more than 50 per cent. in private telegrams; but it has not yet caused such an expansion of telegraphic communication as to bring about a financial success. The total number of messages despatched in India by the Government Telegraph and by the Railway Telegraph for the public does not exceed 700,000 annually, a number which is very small for so large a country as this.

The head of assessed taxes I shall reserve for separate notice hereafter. The Council will perceive that it shows a decrease of £1,475,000.

It will hence be apparent that the budget estimate of receipts compares favorably with the regular estimate of the current year. If the receipts now transferred to the local Governments had remained as before, and if the assessed taxes had been retained at the same rate, then the total for the year, instead of being £49,098,900, would have been £51,230,300, or 51¼ millions,—as high a figure as has ever been presented. The diminution then in the present total does not indicate any diminution whatever in our real resources

I now come to the ordinary expenditure of the year. This is estimated at £49,005,500, or just 49 millions, showing a reduction of £1,046,300, or one million below the estimated expenditure of the current year. This result is, *primâ facie*, satisfactory. There are several important points in the figures, however, which I must briefly notice. Before doing so, I will clear off some of the lesser points.

In the first place, it will be observed that there are various small increases under headings relating to the collection of the revenue, namely, land revenue (£120,500), forests (£65,100), excise (£21,400), salt (£46,200), opium (£37,900), which do not arise from any permanent accession to establishments or such like expenditure, but from temporary measures leading directly to a pecuniary return, as, in land revenue, for re-assessments; in forests, for bringing additional timber to market; in salt, for expenses at the Sambhur Lake; in opium, for extension of cultivation; and so on.

We do indeed always accede to well considered applications for grants for re-assessment of the land revenue, an operation which generally, though not always, leads to increase of income. Our notice has been attracted to the apparently slow progress, despite considerable outlay, in the re-assessment of the land revenue in the Punjab, a delay which seems prejudicial to the fiscal interests. This is a matter peculiarly within the province of the local Government; the point however has our attention.

The increase (£95,200) shown under stamps and stationery is due to the exhibition of the charge for stationery for the first time under this head. The increase of £74,200 under administration is chiefly owing to the transfer of the charge for the printing establishments of the Supreme Government to this head. It is not thought expedient to maintain a separate head of stationery and printing for this item and for the cost of stationery alone. Provision has

also been made for the contemplated Department in the Government of India for revenue, agriculture, and commerce, the creation of which is not expected to add ultimately more than £2,000 to the cost of the establishments of the Supreme Government.

The decrease shown under the heads of law and justice (£535,300), of police (£2,269,500), of education (£606,200), of medical services (£334,800), of printing (£284,100), of public works ordinary (£1,575,600) arises from the charges for these services being in whole or in part transferred, under the arrangement I have to-day described, from these several heads to the new head of allotments for provincial services, which head appears for the first time in our statement. The services of police and education having been transferred wholly, disappear from our statement. The heading of stationery and printing also disappears; printing becoming henceforward almost wholly a provincial service, and stationery being transferred, as above explained, to stamps. The headings of law and justice, of medical services, and of public works have been only partially transferred. The decrease shown under law and justice relates only to jails and registration; that under medical services to those establishments pertaining to civil stations, to dispensaries, and to sanitation, which are immediately under the local Governments; and that under public works to roads other than military, and civil buildings, with their due proportion of establishments.

The decrease under miscellaneous is due chiefly to our being able, in consideration of peace happily restored in Europe within the last few days, to estimate for a rather more favorable rate of exchange than we have had to meet this year. The rate we have taken is 1*s.* 10¾*d.* for the rupee, giving, upon a supply of 9 millions sterling, a nominal loss of £494,500.

We have not found it convenient to arrange for proceeding with the general census of India at present.

The increase of £76,200 for interest relates to the loan provisions for the two years, which I shall notice separately hereafter.

The new head of allotments for provincial services (£4,799,300) comprises the imperial assignments made, upon the basis of the grants of 1870-71, to the several local Governments in India for jails, registration, police, education, medical services, printing, roads and civil buildings, and their connected establishments, less the amount of provincial receipts under these heads, which receipts have been surrendered to the local Governments.

The expenditure for the army is set down at £15,984,000, showing a decrease of £316,000. Of this decrease, £270,000 occurs in India and £75,500 in England; in fact it for the most part occurs in India, and mainly for this reason, that no outstanding amounts such as have had to be charged in the current year for the overland transports are expected in the coming year.

In my last financial exposition I stated what had been done regarding military reductions. I added that our recommendations for reductions in the artillery and the Native army were under the consideration of Her Majesty's Government in England. During the current year, progress has been made with both these important questions, which necessarily involve doubtful or controversial points. After discussion we have submitted our final proposals. We now estimate a saving of nearly £70,000 by a reduction of five batteries of horse artillery and three garrison batteries. But in this as in other cases the reductions are so managed as to cause no diminution in effective strength of European soldiers. Under all the circumstances, we have felt justified, moreover, in estimating a reduction of £100,000 in the expenditure on the Native army for the coming year. On the other hand, we have been obliged to allow increases for camps of exercise, for military instruction, and for the manufacture of ammunition. On the whole, the amount estimated in India for 1871-72, namely, £12,410,000, is the lowest amount that has been taken for any year since the war of the mutinies.

Though the military charges in England do not show a further increase in the coming year, their growth of late years has not escaped our notice. It has occurred under the heads of overland transports, of furlough allowances, and of stores. The increase in furlough allowances in England, arising from officers drawing furlough pay more than heretofore in England instead of in India, is mainly apparent, being counter-balanced by decrease in India. The increase in stores is for the new breech-loading arms, and is so far not to be regretted, the importance of the arms being too manifest to require explanation. The only item which causes anxiety is the overland transport service, which, however advantageous, does seem likely to cause a permanent augmentation to our expenditure. Attention is being given to the matter. I may add that the important head of retired allowances does not at present show any increase. Whether it is, or is not, likely to increase in future, is a question on which we have submitted our views to Her Majesty's Government in England.

The expenditure proposed for public works ordinary amounts to £2,365,000, or 2⅓ millions. In my last financial statement I explained the reasons why the grant for this branch, once so large, had been reduced to 4 millions. It is now

nominally brought down to 2⅓ millions by the transfer of 1⅓ million to provincial services, as already explained to-day. There have been also some further retrenchments from the grants. For the laying out of the 1⅓ million annually, the several local Governments will in future answer. The 2⅓ millions now remaining under the general control of the Government of India consist of—

	£
Military	1,012,500
Civil Buildings	150,700
Roads and Communications	115,900
Miscellaneous Public Improvements	25,600
Agricultural	454,900
Establishment and Tools and Plant	605,400
TOTAL ...	2,365,000

These important grants manifestly stand very low,—lower indeed than they have been for years past, and almost as low as can reasonably be expected. The grant for military buildings includes the completion of those new double-storied barracks which had been commenced. In my statement made in March 1869, I went, at some length, into the subject of these barracks. Since then the execution of the scheme has been somewhat delayed from several reasons. It was found that in some places the existing accommodation for the troops was sufficiently good to allow of the new buildings being postponed at a time of financial exigency. There are plans for placing an increased proportion of the troops at hill stations, to some slight extent reducing the need of accommodation in the plains. In some respects, too, there arose doubts as to the suitableness of the designs of the new structures. The expenditure therefore on new barracks has been comparatively small (£401,558) during the current year, and will be only £436,533 during the coming year. I need hardly add, however, that the important subject of providing the best obtainable accommodation for the European troops is one which has our constant attention.

The item of establishment, already reduced, may perhaps alone admit of further reduction.

I gather that it has been supposed by some that public works expenditure has been maintained unduly high of late. But the Council can judge whether any such supposition could be supported by these figures. Surely no one will be found to say that the 1½ million allotted to the local Governments is too much. And as regards the 2⅓ millions remaining under the Government of

India, surely no one can justly say that the amount is not moderate, considering the several services and the various provinces in which those services occur.

The net amount which the country will have to pay to the Railway Companies on account of guaranteed interest is set down for the coming year at £1,856,900, or upwards of 1¾ million; about the same amount as that which is being paid during the current year. These amounts are no doubt formidable and are the heaviest ever yet presented in our statements. The steady accretion year by year of these payments does indeed afford matter for reflection. The main cause is the growth of our gross guaranteed interest. On the one hand, this gross amount grows yearly in England; last year, 1869-70, for instance, it was £4,176,008; next year it will amount to £4,638,600, an increment of nearly half a million within two years. On the 31st March last the total capital outlay stood at 83½ millions (£83,444,147) out of a total capital subscribed of 86½ millions (£86,522,491); on the 31st December it stood at 86½ (86,525,000), the total amount subscribed being 89½ millions (£89,460,000). We have now nearly 5,000 miles of guaranteed railways open, besides 1,000 miles sanctioned or under construction. On the other hand, the set-off in India, namely, that of the net traffic receipts, does not grow at a corresponding rate; just now indeed it is hardly growing at all. Last year it amounted to £2,628,941; this year we seem likely to receive only £2,530,700, and next year we expect £2,781,700. It seems to be not so much that the working expenses are unreasonable after allowing for new lengths of line opened—though no doubt there is room for economy;—it is rather that the traffic, especially the goods traffic, has not of late been so flourishing as we might have hoped, considering the increased length of open lines. Last year the gross traffic earnings amounted to £6,204,943; this year they amount to £6,551,700. For next year they are set down at seven millions (£7,006,000). In my exposition of 1869 I put down the quantity of goods carried at three millions of tons annually and the number of passenger journeys at 16 millions. At the present time the annual tonnage may be set down at 3½ millions and the passenger journeys at 17½ millions; showing no considerable increase of late, and leaving an immense way for our traffic to make up before it will bear any favorable comparison either with the size and population of India itself, or with the results obtained from railway communication in other countries.

Nor has any great progress been made of late by the guaranteed lines towards providing for the 5 per cent. interest on capital, and towards discharging the debt due by them to the State. According to the figures of the regular estimate, the East Indian Railway is paying, upon the capital actually expended

to the 31st December 1870, 4·8 per cent. per annum, the Eastern Bengal 3·1, the Great Indian Peninsula 2·7, the Bombay, Baroda, and Central India 2·4, the Madras Railway 2 2, the Great Southern of India 1·4, and the Jubbulpore extension only 1·2 per cent. The railways in India as a whole are thus, at present, paying less than 3 per cent. During the last five years the increase of earnings, whether gross or net, has been in the Bengal Presidency rather than in the Madras and Bombay Presidencies. The East Indian Railway and the Eastern Bengal line alone show any large increase. The other lines have remained comparatively stationary in this respect during this period.

So long as the construction of additional lengths of railway is going on, the capital accounts, as a whole, necessarily increase, and with them the gross guaranteed interest charge. For a reduction in the net charge on this account we must look to increased traffic receipts; but, as just explained, these have not of late kept pace with the growth of the gross charge. It is the more essential, therefore, that as the several undertakings are completed, or approach completion,—and many of them are now in this state,—the further expansion of the capital accounts should be strictly watched and controlled. Strenuous endeavours have been made in this direction for long past, and orders have issued quite recently for the making up of the capital accounts of the several Companies. Rules have also been prescribed for a closer review of the objects for which capital outlay shall in future be incurred on open lines, and a money limit has been fixed within which all outlay on individual works shall be charged to revenue. A provision like this will, it may be hoped, result in the necessity of every work being jealously scrutinized by each party to the contract, and the constant accretion of the capital accounts by the frequent admission of small items of charge will thus be checked.

During the year by special arrangements made by the Secretary of State with three of the guaranteed railways (Great Indian Peninsula, Bombay and Baroda, and Madras), their debt to the State has been cancelled, and the right of the State to purchase the lines at the first optional period waived, on the condition that the Government shall, during the remainder of the terms of the contracts, receive half of any net traffic earnings in excess of 5 per cent. The East Indian Railway did not assent to this arrangement, and the offer will not, I believe, be repeated to them or extended to the other lines.

I must here ask leave, in reference to public works generally, to bear testimony (in which testimony your Lordship and this Council will doubtless concur) to the very valuable co-operation afforded to the financial administration

by Colonel Richard Strachey, the Secretary in the Public Works Department, and now a member of this Legislative Council. Of late years the reduction of expenditure has been greater in the Public Works Department than in any other. However much this reduction is to be regretted, it certainly has been financially necessary; and I cannot testify too strongly to the able and the judicious efforts made by Colonel Strachey in this direction, without which efforts these important financial results would have been impossible.

It may be interesting to note the result of the English expenditure (ordinary) shown separately in one of the accompanying statements. In the regular estimate for 1870-71 it is set down at £8,302,900, and in the budget for 1871-72 at £8,124,800, showing a decrease of £178,100, and this notwithstanding an unavoidable increase of £80,200 of interest on money to be borrowed. Thus, although there have been increases during 1870-71, which I have for the most part explained to-day, there is no further increase in the budget for 1871-72.

Before leaving the subject of ordinary expenditure, for the reduction of which we have striven so hard, I shall quote a passage from a despatch received by us from the Secretary of State in August last, which runs thus:—

"Upon a consideration, generally, of your estimates of income and expenditure, I am satisfied that you have laboured earnestly to effect every reduction which can be carried into effect without impairing the efficiency of the several departments of Government."

So much, then, for the various items of ordinary expenditure.

Besides the ordinary expenditure as above explained, there is proposed an expenditure for public works extraordinary of £3,626,000, or upwards of 3½ millions, to be provided for from borrowed funds, bringing up the total expenditure, ordinary and extraordinary, to £52,631,500, or 52⅔ millions. Whether the full amount of 3½ millions will be really laid out during the coming year, is more than I can say, considering that it has never yet been found possible in any year to spend the amount proposed for these works. The works in question are irrigation projects in the Punjab, North-Western Provinces, Oudh, Behar, and Orissa, and State Railways in the Punjab and Rajpootana. The careful enquiry needed for these difficult irrigation projects, and the necessity of providing for adequate returns in water-rent, may account for much delay in breaking ground. The gauge question having been at length settled, we may hope to soon see a vigorous commencement with the State Railway works, some of which are urgently needed to cheapen the supply of salt for the people.

The new gauge determined after much consideration by the Government of India is that of 3 feet 3 inches, or 1 metre, which is narrow as compared with the existing gauge in India of 5 feet 6 inches. I cannot here enter into this moot question. I shall only observe that the adoption of the comparatively narrow gauge will, in our belief, cause a large saving both in original outlay and in subsequent working charges. The importance of this consideration will be manifest from the facts I have mentioned to-day, regarding the growth of net interest charges for the existing railways. Doubtless the further extension of the railway system in the continent and peninsula of India is most desirable. But unless the work can be done more cheaply or made more profitable than heretofore, the country cannot afford to pay for such extension. That is the plain fact which renders economy in construction and management of railways so important as to weigh heavily even against considerations of efficiency.

Such, then, are the figures for 1871-72. On a comparison of income with ordinary expenditure, the result is an equilibrium, supported by a small surplus of £93,400,—a margin which is indeed almost too low for the requirements of the public service.

I must now ask the Council to revert to the item of assessed taxes on the receipt side of the budget for 1871-72. This is set down at £600,000, which, as compared with the £2,075,000 of the current year 1870-71, shows a reduction in this taxation of £1,475,000. This is obtained by lowering the rate of assessment from 6 pies in the rupee, or $3\frac{1}{8}$ per cent., to 2 pies in the rupee, or a fraction over 1 per cent., and by raising the minimum income liable to assessment from 500 rupees to 750 rupees; in other words, by exempting incomes below 750 rupees. The one per cent. income tax which we retain is manifestly indispensable, inasmuch as without it we should have to produce a budget with a deficit, which is an alternative not to be adopted so long as any legitimate or reasonable resource may remain to us.

Still it may be remembered that we now propose to reduce the income tax to the lowest rate at which it has ever been levied in India, and indeed the lowest at which it could be levied, if retained at all. The proposed rate is equivalent to $2\frac{1}{2}d.$ in the pound. The rate of the income tax of 1860 was 4 per cent., or $9\frac{1}{2}d.$ in the pound; subsequently reduced to 2 per cent., or $4\frac{3}{4}d.$ in the pound; the rate for the income tax of 1869-70 was, on the whole year, $1\frac{1}{8}$ per cent., or $3\frac{1}{2}d.$ in the pound; that for 1871 was $3\frac{1}{8}$, or $7\frac{1}{2}d.$ in the pound.

It is indeed a source of satisfaction to us to find ourselves able to provide for the requirements of the year with so low a rate of income tax, and to afford

so considerable a measure of relief to the tax-paying classes of all degrees in British India.

More particularly are we gratified at being able to exempt all incomes below Rs. 750; the effect of this will be to altogether relieve about 240,000 persons heretofore taxed. The total number assessed to the existing income tax is about 480,000; under the now proposed tax the number will be reduced to about 240,000, which really forms a very small proportion (1 in 625, or say 1 in 120 heads of families), out of a population of 150 millions. It was in respect to the small incomes below Rs. 750 that complaints of over-assessment or exaction, or other vexation, have mainly arisen. We have been impressed by the statements made regarding the pressure of the tax, and its concomitants, upon these small incomes; troubles which, we fear, in such a country as India are practically difficult of remedy, though of course no effort has been spared for prevention or for cure. While the rate remained low as in 1867-68 and 1868-69, these complaints were not perceptible at all, or were much less rife; and no doubt this year the inherent difficulties of the case were aggravated by the increased rate. Whether they would, or would not, be essentially mitigated by reduction of the rate, may be a question. At all events, by the exemption of the lowest class of incomes altogether, we hope that some at least of the most salient points of objection will be effectually removed, and that the sacrifice of revenue caused by the exemption (some £150,000 at one per cent.) will not be found considerable.

It may be borne in mind that in 1860, and subsequent years, the tax reached down to incomes of Rs. 200; subsequently it was remitted on incomes below Rs. 500. The license tax of 1867 reached down to incomes of Rs. 200. The certificate tax of 1868 reached only to incomes of Rs. 500. These were both virtually rough income taxes. The 500 rupees limit was observed in the income taxes of 1869-70 and 1870-71. Thus it is clear that from time to time the policy has been to extend the exemption more and more among the poorer of the classes liable to assessment. And now we propose a further exemption beyond which it is difficult to go, if the tax be retained at all.

I have, therefore, to propose on behalf of the Government of India an income tax of two pies in the rupee, or a fraction above one per cent., and to request leave to introduce a bill into this Council for that purpose. The bill, if it shall pass into law, will replace the existing Income Tax Act, which expires on the 31st of this month (March). We have endeavoured in the bill to amend such of the provisions of the present law as have appeared to operate with occasional harshness, or to cause particular dissatisfaction. We do not propose to enact it for any particular period or to fix any limit of duration.

From this explanation of the revenue and charges of the year, I pass on to the provision of ways and means and to the cash balance account.

We expected to commence the current year 1870-71 with a cash balance of 13½ millions (£13,644,859) and to close it with a balance of 10½ millions (£10,569,443). On closing the account, however, finally for the previous year, we found an actual cash balance at the commencement of the current year of nearly 14 millions, (£13,940,451), which improvement was due to the actual account of the previous year turning out more favorable than the regular estimate. We expect that the current year after its close will leave us a cash balance of 16 millions, or £16,012,051, being 5½ millions (£5,442,608) better than the first estimate (£10,569,443). Throughout the year, the cash balances all over India have been very high, higher than they have been for some eight years past. (Their lowest point was 10¾ millions in October.) This circumstance is to some extent satisfactory, and calculated to raise confidence in our finance. Still there are special, perhaps adventitious, reasons why we stand so well in this respect, and even so much better than we expected at the time of my last exposition. These reasons are, firstly, that the opening balance of the year was actually higher than the estimate by £295,592; secondly, that we have spent 1¼ million on public works extraordinary instead of 3 millions, as I have already explained to-day; thirdly, that we have paid in India altogether ½ a million less on Secretary of State's bills than we expected; fourthly, that the amount of capital advanced to the railway companies for the construction of the lines has been less by nearly 1½ million (£1,404,200) than was expected; fifthly, that owing to unexpected accession of opium revenue, the ordinary finance of the year has been bettered by a million, as I have also explained to-day. These reasons, with some few changes in the remittance heads, fully account for the improved condition of the cash balances and for the difference between the original and the present estimate.

As might be expected under all these circumstances, our public credit, as proved by the prices of Government stocks, has, on the whole, been higher during the current year than it has ever stood before. Our four per cent. stocks in India have commanded prices of 96, 97, and even 98, for every hundred rupees. In England the Secretary of State's four per cent. sterling paper has been sold at a small premium. In my last statement I noticed the gradual decline in the value of our 5 and 5½ per cent. stocks by reason of the limited period for which our loans at those rates of interest have currency. The decline has continued during the current year for the same reason. That our stocks bearing the higher rates of interest should decline in value, while those

bearing the lower rates are rising, is manifestly a most satisfactory circumstance. It may be interesting to mention here that the amount of our rupee debt (that is, the securities of the Government of India enfaced for payment of interest in England by bills upon India) held at home, grew during the year from £15,839,832 to £17,797,622, or by nearly two millions sterling. This is no doubt due to the adverse rates of exchange.

I have now to advert to the loan arrangements for 1871-72. There will, as might be expected, be some borrowing, inasmuch as I have already stated that 3½ millions are proposed to be spent on public works extraordinary during the coming year.

In my last statement I explained that at the commencement of the current year we had in hand 1½ million due by the loan department to the public works according to the account as then made up. The Secretary of State then intended to raise, by the end of 1870-71, two millions more; he has actually raised 3½. As the Council knows, we have raised nothing in India, save a quarter of a million lent by Maharaja Holkar for a state railway in His Highness' territories. These several sums make up 5¼ millions. Against this we have expended in the year (as already seen) 1¼ million on public works extraordinary, which, deducted from the 5¼, leaves 4 millions in hand, for which the loan department has to account to the public works department. To that balance, however, there is a set-off of £1,105,247 advances to municipalities and the like, to which I shall immediately refer. The actual estimated balance in hand on this account at the end of 1870-71 is about 2½ millions (£2,591,438). Moreover, although our own transactions will result in the reduction of our debt by a small amount (£139,800), the Secretary of State has intimated his intention of borrowing 2½ millions during the coming year, repaying only £5,000, so that we shall add to our debt during the year altogether £2,355,200. This amount, added to the balance just shown, provides more than enough for the 3½ millions of proposed extraordinary expenditure. There is, therefore, neither need nor justification for the raising of any loan in India at present.

It is from these loan funds that we have been able to advance various sums to municipalities for reproductive works on good security for payment of the interest and repayment of the principal. The amount of advances of this nature made or brought to account since the beginning of 1869-70 is net £1,105,247. It is, of course, practically impossible for municipalities to effect any large improvements without raising funds by borrowing. If they must borrow, it is far better that they should borrow from the Treasury rather than in the open

market, for the plain reason that the Treasury can afford to lend on more favorable terms, and also because our financial control over these transactions is thereby promoted. Legal doubts, however, arose as to the competency of municipalities to contract obligations of this description. Therefore a law has been introduced into this Council to enable them to do this, and to render valid the proceedings they may take towards this end under proper sanction. These remarks are irrespective of the debentures issued by certain municipalities, such as that of Calcutta, under a special law.

If extensive disbursements shall hereafter be made under the law before this Council for facilitating advances of money by Government for permanent works of agricultural improvement, the money will be disbursed from the loan funds also.

I must here draw attention to the fast-growing interest on account of these borrowings. In 1869-70 this system was fairly begun; since then 7½ millions (£7,479,099) have been borrowed and 2⅓ more (£2,355,700) are now to be borrowed, in all 10 millions (£9,974,099); of which 3¾ millions (£3,782,411) have been spent on public works extraordinary, and 3½ (£3,626,000) are now set down to be expended; in all 7½ (£7,408,411) millions; besides which a million (£1,105,247) has been advanced as I have above shown. The annual interest on the total sum thus borrowed amounts to more than £450,000 annually; on the total sum expended, or to be immediately expended, it amounts to £350,000. It is hoped that the yearly increase of the item now separately shown as irrigation income will prove more and more a set-off; and that when the State railways shall be opened, there will be a further set-off in that direction. The more complete exhibition of all the income derived by the State from its canal works has occupied, and is still occupying, the attention of the Government of India, and some important points of legislation connected therewith have been brought under the consideration of this Council.

The entire registered debt of India (exclusive of £6,299,700, East India Stock, for the redemption of which a guarantee fund is accumulating under the provisions of Cap. 85, III and IV William IVth) is expected to amount at the end of 1871-72 to £106¾ millions (£106,853,400), of which £67,089,500 will have been borrowed in India and £39,765,700 in England. The interest estimated to be paid in 1871-72, exclusive of the dividends on the East India Stock, is £4,742,000, being 4·44, or less than 4½ per cent. upon the whole registered debt.

We duly bear in mind the amounts of the loans bearing interest at 5 per cent., repayable during the coming year. But I cannot yet state the intentions of the Government of India in regard thereto.

After the loan provisions which I have just explained, it remains to see how the cash balances will stand for the coming year 1871-72. In my last exposition before this Council, I described the improvements made in the form of the estimate of the cash balances. It will be remembered that this great account comprises a variety of important items besides the regular income and expenditure of the Government, inasmuch as the Indian exchequer performs a vast amount of business in addition to the receiving of the Government revenues and the disbursing of the Government expenses. The general nature of this business I have described in previous expositions.

I will first set forth the result of the figures on both sides of the account in India, exclusive of England.

The receipt side then is as follows :—

Commencing the year with an estimated cash balance, as already seen, of 16 millions, and a Government income of 49 millions, we expect, besides, 6½ millions of railway traffic receipts, 17¾ millions of advances recovered and deposits repayable, including local funds; and 1½ million on the remittance or suspense account between England and India; making, with some other smaller items and transfer entries in all 91¾ millions (£91,871,051). On the payment side, besides the ordinary expenditure of 39 millions and the extraordinary of 3½ millions, we have 3½ millions railway working expenses, 18⅓ millions of advances recoverable and deposits repaid, 9 millions to be paid on bills of exchange drawn in England by the Secretary of State; and 1¾ million to be disbursed for construction of railways in India by the guaranteed Companies, making, with some transfer and account entries, a total of £76,749,800, or 76¾ millions. This total, deducted from the 91¾ millions shown on the receipt side, leaves us an estimated cash balance of 15 millions (£15,121,251) on the 31st March 1872, being the close of the coming year 1871-72.

There is also the cash account kept by the Secretary of State in London on account of India. For the coming year, 1871-72, the receipt side is in this wise. The opening cash balances will be 2 millions; the amount received on bills of exchange drawn on India will be 9 millions; there will be 4¾ millions of railway capital subscribed, and there will be 2½ millions borrowed. These, with some smaller items, make up a total of 18½ millions. On the payment side there will be a regular expenditure, ordinary and extraordinary, in England on account of India, of 13 millions (£13,114,300); there will be 1½ million paid on the remittance account, and there will be 2 millions withdrawals of

railway capital. These items deducted from the 18⅓ millions on the receipt side leave a closing balance of 2⅓ millions.

The aggregate of estimated receipts and payments in India and England for the year, as I have shown above, stands at 110¼ millions (£110,295,334) on each side of the account. I have not attempted to do more than give a sketch of this really vast account, the complete development of which would weary the Council. But even this outline will convey some idea of the dimensions to which the transactions of the Indian exchequer have grown.

I have said that in the deposit receipts are included the local funds, the expenditure from those funds being shown in deposit payments. A new and interesting character will now attach to these funds. They have heretofore, as the Council knows, included the road fund, ferry fund, pound fund, educational cesses, police cesses, profits of prison labour, hospital funds, port and harbour funds, municipal octroi fees under special Acts, and so on. To these there are now added the £656,400 already described to-day, being the receipts of the departments of jails, registration, education, and police, transferred from the imperial sheet. The total thus made up for 1871-72 amounts to £4,028,473, or 4 millions for all India. There will also be added the proceeds of the new local taxes that may be imposed by the local Governments; so the heading will shortly show an augmentation, and may probably grow year by year. Each local Government will in future exhibit a sheet of its income and its expenditure under this head; and in this statement there will be combined the income and expenditure under the new allotments for provincial services described to-day, amounting to 4¾ millions; so that the local budgets under the new measure will deal with an aggregate income of nearly 9 millions to start with.

Before finally quitting the finances of the year, I must ask leave to notice certain remarks which have been made, and indeed reiterated, regarding the accounts of the Home treasury of the Government of India which are kept in England. It has been said that the expenditure in England on account of India is incurred without sufficient reference to the authorities in India, and that the detailed accounts of it are not made known in India. Now, I showed in my last exposition that by far the greatest part of that expenditure is really incurred either under rules proposed by the Government of India, or upon requisitions made by the Government of India. So far we ourselves must accept a very large share of the responsibility. There are some exceptions to this; but they are not considerable. So much for the

expenditure. No doubt the accounts of that expenditure are kept under the direct orders of the Secretary of State for India. But they are rendered to us, month by month, with the greatest regularity and the fullest detail. We again publish the account annually with all its details in the *Gazette of India*, and have usually done so for years past; the publication taking place in the summer. In short, the information before the public in India regarding the expenditure in England is as full as that regarding any portion of the public expenditure whatever.

I may add one word about the Indian accounts. The entire approximate actual accounts for the year 1869-70, ending 31st March 1870, were published on the 3rd September 1870; that is, in five months after the completion of the year. The regular estimate for the year 1870-71 is produced to-day early in the eleventh month of the year, comprising more than ten months' actual figures for all the revenues and for all the civil expenditure, and nine months for the remainder. Now, considering that we have to deal with accounts from eight local Governments, from twelve imperial departments, and 225 treasuries—all scattered at great distances—I think that these facts show a high degree of promptitude and discipline in the Account Department throughout British India.

After this exposition of the prospects of 1871-72 it remains to notice very briefly several measures which have been adopted in connexion with finance.

In my statements made in March 1869 and April 1870, when noticing the success of the three presidency savings banks, I stated that measures were being devised for the ramification of these institutions throughout the interior of the country. During the current year, these measures, after long discussion, were introduced in the several divisions of the Bengal Presidency. The number of new banks already opened is 49; the total deposits on the latest dates for which we have returns amount to Rs. 1,20,693, or £12,069; and the number of depositors is 925. The deposits will doubtless increase from time to time, the present result being only a commencement. This is of course in addition to the Presidency Savings Bank at Calcutta, which now has £291,640 of deposits and 7,464 depositors. We have not yet opened district savings banks under that name in the Madras and Bombay Presidencies, but practically they do exist in every district under those Governments, as the Government Savings Banks in both Presidencies extend their benefits to all depositors without the restriction which was placed upon such institutions in Bengal, where Government servants only were permitted to open deposit accounts. The Government Savings Banks

in the Presidencies of Madras and Bombay are very freely resorted to. The present number of depositors in the Madras banks is 7,189, and in those of Bombay 15,679; the aggregate amount deposited in the Madras banks is £187,727, and in the Bombay banks £441,137. But the figures in both Presidencies are believed to include the deposits of the native army. The system in these Presidencies may perhaps eventually be assimilated to that now introduced in the rest of India. The total of deposits in the savings banks of all kinds in the three Presidencies now stands at £932,573, and the number of depositors amounts to 31,257. This is exclusive of regimental savings banks in Bengal, the deposits in which amount to £76,000. These figures show an increase of nearly 40 per cent. since I first drew the attention of this Council to the subject two years ago. That the increase may be progressive year by year is much to be wished.

In my last statement I adverted to the measure then before this Council for increasing the proportion of the paper currency reserve to be invested in Government securities, and for raising the limit from four millions to six; adding that the operation, if authorized by law, would in practice be kept cautiously tentative. The bill has since passed into law, but we have not yet, under the circumstances of the currency, seen fit to avail ourselves of the power which has been taken. We rather prefer for the present to keep our specie reserve large and full, in order that we may have the means of facilitating the encashment of the notes, of whatever circle, at all the principal treasuries throughout the country. Arrangements of this kind appear even more than ever desirable, since we have (within the current year) obtained power by law from this Council to issue notes of five rupees, a lower denomination than has ever yet been tried in India. I have so recently explained in detail to this Council the arguments in favor of the five-rupee note; the conditions under which the offices of the interior circles of India are to cash notes of all other circles; the arrangements for cashing notes at the ordinary treasuries in the districts in the interior; and the general state of our paper circulation and our reserves,—that I need not advert further to the subject now, beyond stating that the average weekly circulation of 1869-70 has proved to have exceeded 10½ millions (£10,630,473), a slight increase over any previous year; that the circulation of the current year does not promise to be equally favorable, the estimated average circulation appearing not likely to exceed 10 millions; and that the reserve consists of 6¾ millions (£6,846,106) in specie, and 3¼ millions (£3,227,200) in Government securities; the specie reserve being manifestly strong.

that during the current year various measures relating to finance have been carried out, such as the coinage of ten-rupee and five-rupee gold pieces, the legalization of a five-rupee note in the paper currency, the introduction of district savings banks in the interior of the country.

I must now conclude my exposition. If it be found (as I fear it will) meagre and imperfect in many respects, still I hope the Council will remember that my subject is really too varied and extensive to be fully treated in all its particulars within the limits of the patience of my hearers. At all events, within these necessary limits, I have striven to compress as many facts and considerations as possible.

In 1869 I spoke of flourishing revenue and growing commerce. In 1870 the burden of my story was diminished income and depressed trade. In 1871, however, I have now once more to tell of national prosperity, of abundant harvests, of rising income, of falling expenditure, of improved public credit. In two successive expositions (1869 and 1870) I have had to lament the existence of deficit. But on this occasion, in my third exposition, the picture is at last relieved by the prospect of surplus. The Council knows what strenuous exertions have been made to obtain equilibrium and even surplus. Those efforts seem at this moment likely to be attended with even more success than we at first ventured to hope for.

In 1869 I affirmed that the Government of India had aimed at a financial policy to be at once safe, sound, and just. Since then, two years of trial and labour have passed; and I affirm once more that the same principles have been strictly observed, notwithstanding that the observance caused much trouble and difficulty.

We have maintained a strict distinction as to what expenditure shall, and what shall not, be considered extraordinary to be provided for by loan. All expenditure, however beneficial, not yielding a direct pecuniary return, has been classed as ordinary expenditure. We have resolved that, so far as may be possible, the whole of the ordinary expenditure of each year shall be defrayed from the revenues of that year. We have jealously guarded against everything that might tend to shift the burden of these just charges from the present to the future. We have steadily refrained from providing by loan for any branch of ordinary expenditure or for any public work not yielding a direct pecuniary return. We have even refused to entertain proposals for temporary or terminable loans for such purposes. In preference to any such course, the alternative of enhancing the existing taxation has been adopted. But that taxation has been so adjusted as to fall rather on the richer than the poorer classes of this

country. Though the revenue has been augmented, yet no fresh burden whatever has been imposed on any branch of trade or of industry; no new imperial tax has been introduced; no fiscal innovation has been applied to British India generally. In so far as any fresh tax may be needed in any part of India, the disposition has been to rely on local rather than imperial arrangements.

Retrenchments in both the civil and the military branches of expenditure in India have been made. To afford further relief, the expenditure on ordinary public works has been cut down by more than one-third. Strict economy in details has been enforced by the Government of India and by the local Governments. The better enforcement of economy was one of the reasons for investing the local Governments with increased financial control in several departments. That measure also has been commenced by a further reduction of one-third of a million of expenditure.

On the other hand, liberality has been shown in the provision by loan for public works of an extraordinary and reproductive character. But this operation has been so far guarded financially, in that the interest on the borrowed capital is charged against ordinary revenues.

Though carefully weighing all that can be urged against any part of this policy, we have not been, and are not, persuaded, by any consideration whatever, to depart or deviate from it as a whole. We are still prepared to persevere, and to make any effort that can fairly and reasonably be made to act up to these principles; though we are glad to be enabled by improved circumstances to propose for the coming year a relaxation of some of the stringent measures which, to our regret, had become indispensably necessary for the current year."

At the request of His Excellency the President, the Hon'ble MR. STEPHEN stated that the Bill would be introduced in Council on the 17th instant, and would on that day be referred to a Select Committee. The Committee would probably present their Report on the 24th, and the Council would then be in a position to take the Report into consideration, and would be able to pass the Bill on the 31st. He might further state that the Bill would be published in the *Gazette of India* on Saturday next.

The Motion was put and agreed to.

The Council adjourned to Friday the 10th March 1871.

CALCUTTA,
The 9th March 1871.

WHITLEY STOKES,
Secy. to the Govt. of India.
Legislative Department.

Office of Supdt. Govt. Printing.—No. 671F L. C.—16-3-71.—235.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Government House on Friday, the 10th March 1871.

PRESENT:

His Excellency the Viceroy and Governor General of India, K. P., G. M. S. I., *presiding.*

His Honour the Lieutenant Governor of Bengal.

The Hon'ble John Strachey.

The Hon'ble Sir Richard Temple, K. C. S. I.

The Hon'ble J. Fitzjames Stephen, Q. C.

The Hon'ble B. H. Ellis.

Major General the Hon'ble H. W. Norman, C. B.

Colonel the Hon'ble R. Strachey, C. S. I.

The Hon'ble F. S. Chapman.

The Hon'ble J. R. Bullen Smith.

His Highness Sarámade Rájáháe Hindústán Ráj Rájendra Srí Mahárájádhiráj Siváí Rám Sing Bahádur, of Jaypúr, G. C. S. I.

The Hon'ble F. R. Cockerell.

The Hon'ble J. F. D. Inglis.

The Hon'ble D. Cowie.

The Hon'ble W. Robinson, C. S. I.

EMIGRATION BILL.

The Hon'ble MR. CHAPMAN moved that the report of the Select Committee on the Bill to consolidate the law relating to the Emigration of Native Labourers be taken into consideration. He said that the Bill consolidated five Acts, the provisions of which had been re-arranged by the Secretary.

Suggestions had been invited from the several authorities, and a few had been received and adopted by the Committee. The Medical Inspector was invariably to be present at the time the emigrants embarked, and was to make a final examination as to their fitness for the voyage. In the event of the head of a family or a near relative being found unfit, the other members were not to be separated from him and compelled to undertake the voyage. A few other trifling alterations had been made; but the substance of the existing law remained unchanged.

MR. CHAPMAN believed that law contained all the safeguards that could be devised for the protection of the emigrant from the time of his enlistment until he arrived in the colony. But he could not disguise his apprehension that, in spite of these safeguards, instances of cruel abuses would inevitably occur, unless the officers entrusted with the working of the Act most carefully attended to their duties. It would not be sufficient for the Magistrate to rest satisfied with the bare assent of the emigrant when he was brought before him by the recruiter. He must do his best to ascertain the inducements that had been held out, disabuse the emigrant of all false expectations, and thoroughly satisfy himself that the contract had been entered into without undue pressure of any kind.

His Honour the LIEUTENANT GOVERNOR wished to be allowed to ask the hon'ble gentleman in charge of this Bill two questions. The first was, whether the Government had any information regarding certain allegations that had been made in respect to the treatment of coolies in one of the places to which emigration was permitted by this Bill—he meant British Guiana—or as to the result of the enquiries made by the Commission which had been appointed as to the truth of those allegations: and, secondly, whether, under the rules made by the Governor General in Council or any other authority, there was any provision for enabling the Government of India to ascertain the treatment which the coolies received at the places to which emigration was permitted. What he was anxious to know was, whether there were any means to enable the Government of India to ascertain that laws were not only made for the protection of the emigrants in the colonies, but were duly and fully and fairly executed. On looking over this Bill, he observed that there seemed to be a very marked, almost a singular, difference between the provisions made for the British colonies and for the Danish colony of Saint Croix, and those for the French colonies. He found, in respect to the French colonies, that there was a distinct provision in the Bill, that the duration of the engagement should be entered in the contract, and he found that reference was also made to the Convention with the French Government, under which the duration of the engagement was limited to five years; and that there were also various other minute provisions for securing the safety and well-being of the coolies who proceeded to the French colonies, as, for instance, that they were to have a return-passage, and the like. Amongst these, there was one very essential provision, that the British Consuls in the French colonies were to act directly under the orders of the Governor General in Council as Protectors of the emigrants after their arrival there. On the other hand, not only as regards the British colonies, but

also as regards the Danish colony of Saint Croix, and any other places to which emigration might be hereafter permitted, no such powers appeared to be given to the Government of India. On the contrary, it appeared that there was no provision whatever as regards these colonies, in respect to the duration of the contract, or in respect to the other particulars for which provision had been made with regard to the French colonies.

It might be said that we might trust the Governor General in Council to see that emigration to any colony was not permitted, until proper legal provision for the safety and good treatment of the emigrants in the colony was made. But the great difficulty seemed to His Honour to be, that we had no means of ascertaining that these laws, when made, were duly administered in such a manner as to give us assurance in regard to the treatment of coolies at these colonies. We knew that abuses had prevailed in Jamaica in regard to the treatment of the coloured races in the local courts. It had been shown that those courts were formerly constituted in a way from which it could hardly be expected that equal justice would be done between the white man and the black man. Complaints had recently been made that injustice was done to the coolies in British Guiana, but whether justly or unjustly he could not say. As he had said before, he was struck with the fact that there was no provision that he could see for ascertaining whether the coolies were fairly treated or not, or what became of them after arrival in the colony.

He was also struck with the fact that, when, serious complaints having been made, it was found necessary to appoint a Commission to investigate into the condition and treatment of the coolies in British Guiana, it appeared that the colonial office, to whom alone they could look for protection, did not think it necessary to take the very obvious step of putting on that Commission an Indian officer, or any person who, from residence in India, knew something of the language and habits and feelings of the Natives of India. On the contrary, the Commission consisted of one young English lawyer and one local Magistrate. The constitution of the Commission was complained of, and it was, he believed, partly on the representation of the Colonial Governor, and partly, as he heard, in consequence of representations made by the Government of India, that a gentleman of Indian experience was at the last moment sent after the others as a third member of the Commission.

On these grounds His Honour had to suggest that it might be very desirable that some provision should be made to enable the Government of India, by appointing a local agent or otherwise, to keep a constant supervision over the

administration of the law in the British colonies to which it applied, and in other places, besides the French colonies, to which the Act was or might be extended. Of course the Council was aware that the British colonies were just as independent of this legislature as the French colonies were, and that some of them were almost independent of the British legislature. We could not always rely on the mere casual expressions of public opinion in the Press and otherwise, that we were from time to time made aware of, regarding the treatment of coolies in all these colonies. In some, no doubt, they were well treated; in others, they might not be so, and the coolies could not at this distance distinguish between the good and the bad; therefore he thought some special means of acquiring information very desirable.

The Hon'ble MR. STEPHEN wished, with reference to what had fallen from His Honour the Lieutenant Governor, to call attention to the fact that the jurisdiction of this Council ceased at three miles from the shores of India. The consequence was that, if we put into the Act any provision respecting the supervision of emigrants in British colonies, it would be simply ineffectual. All, therefore, that could be done was to introduce into the law provisions enabling the Governor General in Council to take such measures as might be necessary if he should be informed that due provision had not been made for the interests of the emigrants in the colony to which they might emigrate. If His Honour the Lieutenant Governor would turn to the 57th section of the Bill, he would find that it was there enacted that, when the Governor General in Council had reason to believe that, in any place to which emigration was permitted, proper measures had not been taken for the protection of the emigrants, he might declare by notification that emigration to such place should cease. The 58th section provided that, after such notification had been published, emigration to the place to which the notification related would cease. That was the extent of the protection which it was possible for us to afford by legislation. Of course, if the Government of India did not take proper measures to keep themselves informed of the treatment of the emigrants at the places to which they emigrated, they would be open to blame in their executive capacity. But, as far as legislation went, it would merely be void and of no effect, and he did not think it would be possible to go to any extent beyond what had been done in the present Bill.

With regard to the British colonies, and more particularly to the remarks which had been made respecting the two cases which had been adverted to by His Honour the Lieutenant Governor, all that could be said was that, if what

His Honour had affirmed was correct, it was a state of facts which was much to be regretted, but the remedy for which did not lie in the hands of the Governor General of India in Council. He must point out, moreover, that although it was perfectly true, as his hon'ble friend had pointed out, that all the colonies had at the present day a considerable degree of legislative independence, the Secretary of State for the Colonies still retained a considerable degree of authority over their proceedings. It was not to be supposed that those who were charged with the administration of the general interests of the British colonies would fail in their duty. If they failed in their duty, we could not help it. But it would be clearly their duty to see that the laws passed in regard to the treatment of the coolies in the colonies harmonised with the system established here.

With regard to the special provisions affecting the French colonies, it would be enough to say that they were made with reference to the special convention existing with the French Government, and, after all, they did not extend beyond British India. He thought that, when the matter was considered in that point of view, it would be seen that we had done all that mere local legislation could do upon the subject.

The Hon'ble MR. CHAPMAN desired to explain, with reference to the remarks that fell from His Honour the Lieutenant Governor, that the object of this Bill was to protect the emigrant from the date of his enlistment up to the time of his arrival in the colony. As pointed out by the Hon'ble Mr. Stephen, it would be useless for the Government, in their legislative capacity, to attempt more, inasmuch as any laws they might pass could not be enforced. But the Executive Government could and did look to the treatment of the emigrant during his sojourn in the colony. There was a section in the Bill which enjoined the Protector to board every return-ship and ascertain from the emigrants whether they had any complaints to make of the treatment they had received; and representations received in this or any other way would not fail to be attended to. MR. CHAPMAN might mention that, at the present moment, emigration from Bombay to the Mauritius had been prohibited, in consequence of the excessive mortality that was said to have occurred at that island amongst the emigrants.

Since he had been in charge of this Bill he had deemed it his duty to visit the Depôts at Calcutta and make such enquiries as he could as to the manner in which emigrants were treated. He was satisfied that, whilst in this country, they were treated with kindness and liberality; and that every reason-

able precaution was taken to ensure their health and comfort on the voyage The fact was the emigrant was a very expensive article, and it would be obviously against the interest of those who engaged him to treat him badly.

His Excellency THE PRESIDENT said that reports were being constantly received in India from the Secretary of State for India, which were transferred to him by the Secretary of State for the Colonies, as to the condition of the emigrants in the various British colonies. HIS EXCELLENCY knew that these reports were always carefully attended to if there was any particular matter in them which required the interference of the Executive Government, and whatever steps were found necessary were immediately undertaken. He thought that nothing could be more desirable than for the Government to have regular reports of this kind of the state of the emigrants in all the colonies; and if any suggestions could be made by His Honour the Lieutenant Governor to make these reports more correct and more effective, he was sure they would be readily considered by the Government of India.

His Honour the LIEUTENANT GOVERNOR wished to be allowed to say a few words with reference to the statement which had been made by the Hon'ble Mr. Chapman, that the object of the Bill was only to protect emigrants in this country and during the voyage and till their arrival in the colonies. HIS HONOUR thought we were bound to do more, and to provide that the emigrants were fairly treated in the colony. In fact, the Bill in some sense did provide for the good treatment of the coolies beyond India, because, if sufficient local laws were not made and the coolies were not well treated in any particular colony, the Government had the power to stop emigration to that colony, and we should have failed in our duty if we did not make such a provision.

For the rest, he might say that, as the thing stood, he was satisfied with the assurance that he had received from the Hon'ble Mr. Stephen and from His Excellency the President, that the observations which had been made would have due consideration and attention at the hands of the Government of India in its executive capacity. He was content to leave the matter to the Executive Government, and he felt sure that everything would be done that could be done for securing the good treatment of the emigrants in the colonies. If he had been a member of the Council at an earlier stage of the Bill, he might have proposed that we should have laid down certain rules with regard to the duration of the contract, the appointment of Indian agents in the colonies, and such matters, in the same way as was provided with respect to the

French colonies. He did not see why we should not be able to make the same rules with regard to the English colonies. But at this stage of the Bill he did not feel that he could fairly press these proposals, and therefore he would rely on the Government of India to take sufficient means to satisfy themselves that there was not just ground of complaint in the places to which emigration was permitted, and to stop emigration if there were.

The Motion was put and agreed to.

The Hon'ble MR. CHAPMAN also moved that the Bill as amended be passed.

The Motion was put and agreed to.

SURVEY OF STEAM VESSELS (RANGOON) PORTS' BILL.

The Hon'ble MR. CHAPMAN moved for leave to introduce a Bill to provide for the survey of steam vessels in the Port of Rangoon. He said that the Chief Commissioner of British Burma had represented that at present there was no law authorizing the survey of steam vessels plying to and from the Port of Rangoon, and that steamers which plied there should be subjected to the same kind of supervision as was exercised in respect to steamers in Bengal under Bengal Act V of 1862. The object of this Bill was therefore to provide for the survey of steam vessels in that Port.

The Motion was put and agreed to.

LAND IMPROVEMENT BILL.

The Hon'ble MR. STRACHEY introduced the Bill to consolidate and amend the law relating to advances of money by the Government for the improvement of land, and moved that it be referred to a Select Committee with instructions to report in a fortnight. When he had asked for leave to introduce this Bill some time ago, he fully explained the objects of the measure, and he thought he need not take up the time of the Council in repeating what he then said as to the objects of the Bill. The Bill was partly a measure of consolidation, and the opportunity had been taken of amending the law relating to advances of money by the Government for the construction of works of agricultural improvement. There was no doubt, as he pointed out before, that the existing law on the subject, which was contained in the old Regulations passed for the most part more than half a century ago, was hardly applicable to the present time; and the Government believed that the system of granting advances of this kind, which had been long known in India by the name of takkávi, might be with advantage extended.

MR. STRACHEY had said, when he asked for leave to introduce the Bill, that the proposed measure had been generally approved by all the authorities consulted. But he should have spoken more correctly if he had said by all the authorities of the provinces to which the Bill was intended to apply. For, originally, it was thought that the Bill might be made properly applicable to the whole of India; but the Madras Government had stated that it not only considered the measure inapplicable to the Madras Presidency, but that it disapproved of it also on general grounds. The result of this expression of opinion on the part of the Madras Government was, that the Bill as it now stood only referred to those portions of the Bengal Presidency which had no legislature of their own. He mentioned this because he was afraid, from a letter which had been subsequently received from the Madras Government, that that Government might have thought that he had been somewhat wanting in courtesy in not referring to those objections; the truth being, as he had just said, that he did not refer to those objections because the Bill was not intended to apply to Madras.

He need not, he thought, now refer in particular to the objections raised by the Madras Government. But he might mention that the whole of the papers, amongst which the Madras letter would be found, either had been or would be immediately circulated to the members of this Council. He did not think that he need say anything more regarding the particular provisions of the Bill.

The Hon'ble MR. ROBINSON said that since the first draft of this Bill was put in circulation, an important modification had been made in the omission of the Presidencies of Madras and Bombay from its operation. He was himself in favour of making advances to the people—if they desired such aid and saw their way to using it advantageously—for the improvement of their land and agriculture. But, as the Madras Government objected to the measure for reasons which he was unwilling to discuss, he thought that the omission was wise and considerate.

There was, however, a feature of the measure now proposed to be introduced to which he ventured to draw attention in connexion with the coercive, and, he thought, impolitic and harsh, provisions of another measure which was before this Council, namely, the Irrigation and Drainage Bill.

Some of the provisions of the Irrigation Bill were of a character which, he thought, might prove prejudicial to the reasonable liberties of the people. And he foresaw that the working of the measure now proposed to be intro-

duced would, for all practical purposes, fall almost entirely into the hands of officers of the Department of Public Works, and might be used by Canal Officers in conjunction with irrigation measures, as a means for carrying out extravagant proposals at the compulsory cost of the people.

The Bill now introduced before the Council was no doubt a benevolent and ostensibly voluntary measure; but the Irrigation and Drainage Bill supplied that coercion which occasionally marred our *quasi* voluntary legislation, and embittered its application in the eyes of the people. The Irrigation Bill, if passed in the form now urged by the Hon'ble Member in charge of it, would enable Canal Officers to require the people to have costly works constructed at their own expense by forced loans under this enactment; and it was noteworthy that a large share of the profits from works constructed by such compulsory private outlay would be swept into the coffers of the Canal Department as water-rate; while we should further charge interest under this Bill on the loans so forced on the people. He thought that the propriety of these measures and the justice of these claims required very careful consideration in examining the measure now brought forward.

MR. ROBINSON did not oppose the introduction of this Bill, but he thought that its provisions would require much protective discussion in Committee; and he considered that the Committee's report on the Bill should not be required to be submitted until the Irrigation and Drainage Bill, in any shape which it might eventually take, was fully before this Council. The two were intimately connected, and, in fact, in part supplemental to each other.

Colonel the Hon'ble R. STRACHEY said, deferring for a few moments the remarks which he should consider it necessary to make in reply to the observations which had fallen from the Hon'ble Mr. Robinson, he would first say that he looked upon this Bill as it had been drafted, and as it was now before the Council, as likely to be of great value. There was no doubt that, in carrying out irrigation works in the provinces to which this Bill was intended more particularly to apply, there had been considerable difficulty experienced by the proprietors of land and cultivators in executing the small subsidiary channels which were necessary for the purpose of bringing water on to their lands from the larger channels which were constructed by the Government. He thought there was very little reason to doubt that one of the causes of the sluggishness of the development of irrigation from the canals in Upper India had been the want of capital on the part of the cultivators; for it was practically the tenants themselves who had to supply the means of bringing water on to their

fields. It was because the Bill would give a means of providing the necessary capital to these persons that he thought it would be extremely valuable. It would be valuable, not only to the agricultural population, but also to the State, which embarked a very large capital in the construction of these works,—works which, under existing circumstances, were commonly carried on for many years at a large sacrifice of the public revenues. He thought that any such arrangements as were contemplated by the Bill now before the Council, which practically would assist the neediest class of cultivators and proprietors of land in extending the benefits of irrigation as far as it could be extended, and as speedily as possible, would be one of unmixed advantage. There was another class of minor irrigation works also to which, he thought, the provisions of the Bill could probably be very usefully applied,—that was the construction of minor reservoirs or tanks, which, in many parts of the country, formed the only means of providing artificial irrigation. In the North-Western Provinces and in the districts which were analogous to the North-Western Provinces, which mainly consisted of great alluvial plains, the construction of tanks and reservoirs was almost impossible, and, virtually, the only means of irrigation of these districts was to be attained either from wells or from the large canals which were being constructed by the Government. But in many of the hilly districts of India, the only valuable, and, in fact, the only possible, means of irrigation was to be found in small tanks or reservoirs. This class of works it was extremely difficult, if not impossible, for the Government to undertake itself. Small reservoirs might easily and economically be constructed to supply the wants of one or two villages, at a cost of only a few thousand rupees. Such it was physically impossible for the Government to superintend, and he hoped that, by the assistance given by this Bill, individuals might be supplied with capital for carrying out such works, and that great advantage would be derived in some parts of the country, in which, under existing circumstances, it was almost impossible to look for any means of providing irrigation. He might remark, with reference to what had fallen from the Hon'ble Mr. Robinson, that the Bill made no provision whatever for putting a compulsory rating upon proprietors whose lands were benefited by works which were constructed by others. The intention of the Bill was solely to deal with cases in which individual proprietors or occupiers of land desired to improve the lands which they owned or occupied. That a measure which would give the means of enabling the majority of proprietors in an agricultural district to put a rate on the whole of the lands of that district for any object from which they would all equally benefit, might be adopted with advantage, was extremely probable,

but it was altogether of a different character from what was proposed in the present Bill, and there were reasons which were obvious for not mixing up two subjects of so different a character.

After what had been said by the Hon'ble Member in charge of the Bill, it was, perhaps, not necessary for COLONEL STRACHEY to say very much with regard to the objections taken to the Bill by the Madras Government; but there were two points on which he thought it expedient to express his own opinion. He thought, in the first place, that he was perfectly justified in questioning the opinion given by the Madras Government on this subject, considering that it was in direct opposition to that of their own Revenue Board. He also claimed a right to have an opinion on the subject from the fact that, for many years past, he had been made acquainted, in his position in the Public Works Department, with the manner in which irrigation works were carried on in that Presidency and in Mysore, the conditions of which Province were altogether analogous to those of the Madras Presidency, at least as regards that class of works to which alone this measure could apply, namely, the small reservoirs and tanks.

The first of the objections which the Madras Government had taken to this Bill was expressed in these words:—

"This Government is therefore averse to making the grant of small agricultural loans a part of the financial policy of the empire, and providing for it by law. The result of such a measure, it is apprehended, would be the reckless spending of millions."

He confessed that it seemed to him that a sentence of that sort hardly called for comment or refutation. In the Bill, it was specifically stated that the amount which would be provided for the purpose of making advances for carrying out these works was to be regulated by the Governor General in Council. The tenor of the letter of the Madras Government was to the effect that, if this Bill was passed, it would force upon the Government of Madras a policy which would make their officers go into every village and find out people who could take money, and then compel them to take money, and generally would tend to a reckless expenditure. No human being in his senses would ever dream of doing anything of such a description, and how the Bill could suggest such comments it was difficult to understand.

The second objection made by the Madras Government had reference to the class of works which the Government of India desired to see carried out, by the help of this Bill, by the people themselves, but which the Government of Madras apparently thought would be better done by Government agency.

Now, in this he thought they were totally wrong. He said without the least hesitation that a great error had been committed by the Madras Government, which had affected the whole of the operations of that Government in connexion with an important part of the irrigation works since the year 1857. They made the attempt, which had proved a complete failure, to bring under the control of the Public Works officers the whole of the small irrigation works of that Presidency. Identically the same mistake was made in Mysore, whose officers, being derived from the Madras Presidency, had imbibed the same views and practices, and introduced them into Mysore. During the last three or four years, the Government of India had been taking measures in Mysore to root out the system under which the Government was expected to do everything, and to put upon the cultivators or proprietors the responsibility, which obviously should rest on them, of maintaining these small works. It was perfectly impossible for the Government officers to look after the maintenance and repairs of the tanks and reservoirs which existed in these districts. In Mysore, it was estimated, if he remembered aright, that the number of tanks was 600,000 or 700,000, and the idea of any Government Department attempting to deal with works of that sort was, on the face of it, absurd. In very many cases the annual repairs of these works would amount to no more than three, four or five rupees, and, to use an observation that had been before applied to the case, the Government would have to keep up a large establishment to supervise the throwing of a single basket of earth on the banks of one of these tanks. He felt satisfied that the only possible way to deal with these works was under a system of the kind contemplated by this Bill, by means of which a most salutary reform could be effected.

He should further trespass on the time of the Council in making a few remarks on what had fallen from the Hon'ble Mr. Robinson. There were some persons who could see nothing but vice in what was most innocent, and wickedness in the most virtuous acts. The Hon'ble Member appeared to be one of these persons. He seemed to consider that the whole desire of the Canal Administration in Upper India was to tyrannize and do mischief, and that the principal object of the Irrigation Bill now before the Council was to aid them in this laudable object, and that the present Bill was to be made subservient to the same end. For his own part, and on behalf of that Administration, with which he had long been connected, he totally denied that there was anything of the sort. He said without the smallest hesitation that the whole spirit of the operations of that Department had been proved by the experience of long years to have been of the most beneficent description. No doubt it was perfectly

true that errors had been committed, and would continue to be committed, by Canal Officers; but they were no more infallible than other human beings, or than persons who belonged to the various branches of the Civil Service. Collectors and Magistrates, he believed, sometimes commited errors, but for that reason they were not to be denounced as monsters. When a law was passed, it was always implied that it would be carried out with decency and reason. There was no portion of the criminal or any other law which could not be made an engine of oppression: if you deliberately proceeded to do injustice, you might convict, imprison, and put to death perfectly innocent persons under the best law; but practically that was not done—practically, human beings were not so bad, and even Canal Officers were not quite so bad. He saw no reason why the Government should allow that particular branch of the Administration to commit every enormity, when it would not allow other branches to act in the same way. But he need not trouble the Council further on this subject. The discussion regarding the Canal Bill was altogether irregular, because that Bill was not now before the Council; but remarks having been made regarding it, and he being in a measure responsible for it, he thought it right to say something on the subject.

His Honour the LIEUTENANT GOVERNOR said that it not unfrequently happened in this country that, in the most tempting pastures, a snake lurked in the shape of the Public Works Department. He must confess that, when he heard the remarks that had fallen from his hon'ble friend opposite, he was inclined to think that he was somewhat hypercritical, and that he smelt a snake when no snake was there, because, on reading the Bill, it appeared to HIS HONOUR to be a very innocent Bill, and merely a continuation of the old takkávi system of advances. He did not perceive that the Public Works Department would have anything to do with this Bill at all. But it appeared that his hon'ble friend opposite knew his own business, for he had brought out the snake in the person of the Hon'ble Member on the right (Colonel Strachey). After listening to that Hon'ble Member's remarks, the Council could hardly doubt that, if he had not a finger in it, at least he had a very considerable interest in the Bill.

HIS HONOUR agreed with the Hon'ble Member that the discussion upon the Irrigation Bill at this stage was irregular. We had not the Irrigation Bill before us, and he for his part knew nothing of the provisions of that Bill. Therefore, the suggestion he would make was, that we must take the present Bill as it stood, and discuss it in the light of a Takkávi Bill. He would only add this, that the Hon'ble Member (Colonel Strachey) had broached something which did not appear in this Bill at all. He had made a suggestion with re-

gard to the rating of the inhabitants of particular parts of the country for the purpose of carrying out works of the description which this Bill was intended to cover. With regard to that, His Honour should only wish to say this, that if it was proposed that the character of this Bill should be materially changed in Committee [Colonel Strachey explained that he had not proposed to introduce these provisions in the Bill at all]—he was only going to say that, if it had been so, he hoped the Council would have full time to consider the proposed alterations. But if not, then he need say nothing on that point.

He would observe that he had intended merely to address the Council with regard to one particular section of the Bill. He had had very considerable experience of almost all the parts of the country to which this Bill would immediately apply, and he found that the Lieutenant Governor of Bengal would be responsible for its application to the territories under his control; and he therefore wished to call the attention of the Council to the terms of section seven of the Bill.

The point he wished to call attention to was that, as the section stood, the question whether money might be advanced to a ryot without the consent of his landlord depended on this—whether he had the right or not to transfer his land, which was one of the most obscure points in the whole law relating to landlord and tenant. In most of the country to which this Bill was intended to apply, and also in Bengal to which it might be applied, the question of whether a tenant had a right or not to transfer his holding had not been settled by the law; on the contrary, the judicial decisions upon this point amounted to this, that the question whether or not an occupancy-tenant could transfer his holding rested on the custom of the district or locality, and not upon any special law whatever. The consequence was, that the state of the law on the question as affecting occupancy-ryots was most uncertain and varying; local customs were the only law on the subject. In course of judicial decisions, the law on the subject was gradually crystallizing into shape; but at the present moment, in respect to the great majority of occupancy-tenants, it was almost impossible to say whether a ryot had a right to transfer his holding or not. And, therefore, to throw upon them (the Collectors) the burden of determining what tenants had, and what tenants had not, the right to transfer their holdings, in every case of application for takkávi, would be to cast upon them a burden beyond their powers to bear.

He would therefore suggest, for the consideration of the Committee on this Bill, that it might probably be necessary, either to include the whole body

of occupancy-ryots in the class to whom advances might be made on the security of their holdings, or to exclude the whole body.

The interests of occupancy-ryots in the soil seemed to him so great that he thought we might with great advantage allow them the opportunity of making useful works.

The only question was, whether there would be a sufficient security for the return of the money advanced to them by the Government, such as the Government must insist on having under the provisions of this Bill.

The Hon'ble MR. STRACHEY would say, with reference to the remarks which had been made by His Honour the Lieutenant Governor, that he quite agreed with His Honour that the provisions of the Bill ought to be most carefully looked into by the Select Committee to which it would be referred; and he thought that, very probably, the wording of many sections of the Bill, and particularly the section to which reference had been made, might be improved, and that doubts might be cleared up. He did not himself anticipate that there would be much difficulty in this. He was rather afraid that his hon'ble friend had got an incorrect copy of the Bill before him, for in his observations he spoke as if the Bill might be applied to the Government of Bengal. As, however, the Bill now stood, it could not be made applicable to Bengal at all. His hon'ble friend, MR. STRACHEY thought, quite correctly represented the intention of the Bill when he spoke of it as being nothing more than a continuation of the old *takkávi* system. Doubtless, an attempt had been made to revise the old system, but in the main the intention was to continue it.

With regard to what had been said as to all sorts of iniquities being committed by the Government under cover of this Bill, all he could say was, that it was perfectly certain that this Bill could not by any possibility enable the Government to do anything which it had not been able to do for the last seventy years, and it seemed to him absurd to talk of forcing on, at the expense of the local proprietors and occupants of the land, works for the benefit of the Department of Public Works.

He did not think he need say anything more on the subject: he had no doubt that all the provisions of the Bill would be carefully considered in Committee.

His Honour the LIEUTENANT GOVERNOR said that, as he had not a correct copy of the Bill before him, the remarks which he had made regarding the application of the Bill to Bengal would not apply. Perhaps he might be allowed to state that he regretted that Bengal should be excluded from the operation of the Bill. He hoped that the Committee would make the Bill applicable to Bengal.

His Excellency THE PRESIDENT said he was sure that the Select Committee to which the Bill would be referred would be glad to hear His Honour the Lieutenant Governor's view in regard to the provisions of this Bill. HIS EXCELLENCY did not intend to make any remarks now upon this Bill, but probably he might on a future occasion say something with regard to its general scope and principles, after it had received careful investigation at the hands of the Committee. He now merely wished to make one remark on what had fallen from the Hon'ble Mr. Robinson. It seemed to HIS EXCELLENCY that Mr. Robinson was under the impression that, under cover of this Bill, certain works which were now performed in connection with irrigation works would be performed by the medium and action of this Bill. Having assisted in the framing of this Bill and taken great interest in its preparation, he could assure the Hon'ble Member that nothing of the kind was meant. It was intended only to enable persons to borrow money for works for which provision was not made in any other way; and if there was anything in this Bill or in the Irrigation Bill which would enable the Government to throw on private individuals, and the occupants of land, the expense and cost of works which had hitherto been effected or provided for otherwise, it ought to be omitted; and, therefore, the terrible results which seemed to be anticipated from some mysterious application of the Public Works screw were wholly visionary.

The Motion was put and agreed to.

LOCAL RATES (OUDH) BILL.

The Hon'ble MR. STRACHEY also moved for leave to introduce a Bill to provide for the levy of rates on land in Oudh. He said:—

"My Lord,—In asking the Council for leave to introduce this Bill, I am virtually asking it to give the support of the legislature to the great change in our financial system which has lately been inaugurated—a change the consequences of which have not yet been developed, but which will, I am satisfied, inevitably prove hereafter to be most important and beneficial. The principle which has at last been admitted by the Government has long formed the subject of discussion, and it has been, in one shape or another, before the Govern-

ment and the public for several years. It is a principle which I have so constantly and so publicly advocated, although I can claim no share of the credit of originating it, that I hope I may be pardoned for confessing to a feeling of personal satisfaction that the duty of introducing this Bill has devolved upon me. I have repeatedly declared in this Council my conviction that our financial system required radical and fundamental changes; that we should attain no permanent check on our constantly increasing expenditure, and no real relief from our financial difficulties, until the Local Governments, with whom the actual administration of nearly the whole of India rests, and without whose co-operation no economy is possible, are made directly responsible for the maintenance of a real equilibrium between their income and expenditure. The truth of this principle has now been admitted, and, although some of us may think that the practical admission might with advantage have been made on a larger scale, the measures which have been already taken involve the admission of the whole principle which has been under discussion.

Another and hardly less important principle, and closely connected with that of which I have been speaking, has at last been affirmed, that the Imperial Government will no longer continue to provide from imperial funds the means of carrying out works of local improvement throughout India; and that, if more local roads and schools and hospitals and other useful works of local importance are required, they must be provided from local resources, and not by general taxation.

Proposals to transfer certain charges from imperial to local account have repeatedly been made by the Government of India during the last ten years. It may be useful to refer to those proposals, for they show how long this subject has been under consideration, and how the conclusions of the Government gradually took their present shape.

The transfer of half a million of charge, on account of public works, was an important feature of Mr. Laing's Budget for 1861-62. Relief to the imperial resources was not, however, the sole object which was aimed at. 'By enacting local budgets,' Mr. Laing said :—

'the Government hopes, not merely to meet a temporary difficulty, but to inaugurate a permanent improvement. It has long been a standing complaint with other presidencies and provinces, that they were deprived of their fair share of self-government, and kept in a state of galling and humiliating dependence on the bureaus of Calcutta. Well, Sir, the power of the purse is the ultimate power, and as long as Local Governments are absolutely subservient to Calcutta in financial matters, it is evident that they can have no real independ-

ence. But if, without sacrificing in any way the unity of the empire and imperial control in imperial matters, we give them local budgets, their position is altered. We propose to give, then, not only powers of local taxation, but possibly to credit them with a liberal share of reductions of expenditure, which they may be able to make on the estimates of the general budget. Each Government will therefore have a direct interest in economy, in order to increase the fund applicable to local works; and I cannot fancy that Madras, for instance, will long continue to spend £160,000 a year on public works establishments to look after £460,000 a year of expenditure upon actual works, where it is apparent that every £1 extra spent on establishments, means £1 more to raise by local taxes, or £1 less to spend on roads and canals. * * I think, also, the scheme would greatly foster the growth of municipal institutions, and, what is still more important, of the spirit of local self-help and self-guidance, which is at the bottom of a nation's greatness'

In his Financial Statement for 1862-63, referring to the same subject, Mr. Laing said:—

'As regards public works, it was intended that £500,000 should be transferred to local budgets, and provided for by local taxation. This intention has not been carried out, for a very obvious reason, namely, that new constitutions having been given to the three Presidencies, it would have been manifestly improper to anticipate the action of the local Legislative Councils in a matter which is so peculiarly their province. I am as strongly as ever in favour of the principle of local taxation for local objects. In fact, if this great empire is ever to have the roads, the schools, the local police, and other instruments of civilization which a flourishing country ought to possess, it is simply impossible that the imperial Government can find either the money or the management. The mere repair of the roads, where anything like a sufficiency of good roads has been made, is matter altogether beyond the reach of any central bureau. It is of the first importance to break through the habit of keeping everything in dependence on Calcutta, and to teach people not to look to the Government for things which they can do far better for themselves. * *

It is most desirable to break through the system of barren uniformity and pedantic centralization, which have tended in times past to reduce all India to dependence on the bureaus of Calcutta, and to give to Local Governments the power and the responsibility of managing their own local affairs. The great branches of the expenditure, such as the Army and National Debt, are imperial, and while this is the case, the great branches of revenue must remain imperial also. But there is a wide field, both of revenue and expenditure, which is properly local, which in England is met by local rates, and which, in fact, must be met locally, or not at all.'

The same questions were repeatedly referred to in subsequent years, but it was not until 1867, when Mr. Massey had charge of the Financial Department, that the subject assumed a definite, although somewhat different, shape, and proposals were made which were the origin of the measures which have lately been adopted by the Government. Those proposals were made to Mr. Massey by Colonel Strachey. They went further than the measures that have been

actually taken, but they virtually included everything that has now been done. Believing as I do that this reform will ultimately lead, more than anything else that has been done or has been suggested, towards the establishment in India of a sound system of finance, I think it only fair to say that, although this reform could not have been carried out unless your Excellency had so resolved, the original credit for it is due to Colonel Strachey who originated it, and to Mr. Massey who gave to it from the first his firm and constant support.

These measures have often been called measures for the decentralization of the finances. I think that a more inappropriate term could hardly be found. It seems to suggest that the Government of India has given up its own power of control over the imperial revenue and expenditure. It has done nothing of the kind. The powers of the Supreme Government have been increased rather than diminished. An unreal and illusory authority has been abandoned, and in its place a real power of control has been substituted. Under the old system, nobody could say what were the demands of the Local Governments which the Government of India would have to meet. Every Local Government considered it as its duty—and it was its duty—to get out of the common purse of the empire the largest possible contribution for its own local requirements. As Colonel Strachey wrote, in somewhat strong but, substantially true, language, when his first proposals were made in 1867—

'the existing financial relations between the Government of India and the Local Governments are most demoralizing to the latter. They have found by experience that the Government of India can hardly resist clamour, if it is loud enough and persistent enough. The distribution of the public income degenerates into something like a scramble, in which the most violent has the advantage, with very little attention to reason. As local economy leads to no local advantage, the stimulus to avoid waste is reduced to a minimum. So, as no local growth of the income leads to the increase of the local means of improvement, the interest in developing the public revenues is also brought down to the lowest level. The Government of India has altogether lost what power it once had of supervising details, by reason of the enormous magnitude of the powers now to be performed by it, and the financial mechanism is seriously out of gear.'

'The end to be aimed at by the Government of India should be to divest itself of all detailed concern with those items of expenditure which pertain to branches of the administration the details of which it cannot in fact control.'

This is what the Government of India has been doing. It had virtually no power of control over the branches of expenditure the responsibility for which has now been transferred to the Local Governments. It has now obtained for itself a real power of control, and at the same time it has given to

the Local Governments a direct interest in economizing their resources, in utilizing them to the utmost, and in getting rid of needless expenditure. The charges for these branches of the civil administration have, during the last ten years, been increasing at an enormous rate, and under the old system it was certain that this process would go on. It is this constant growth of the civil expenditure which has been the main cause of all our financial difficulties. Every branch of the public revenue, without exception, has been in a most flourishing condition, but all the advantage has been swallowed up by the endless demands for increased expenditure. In regard at least to a large portion of our charges, a limit has now been put upon this constant growth of expenditure. The Local Governments, instead of having no income of their own, and therefore no standard by which to regulate their expenditure, will now have a certain fixed income to meet their own local wants.

The Supreme Government can now say positively that its aggregate expenditure under certain heads will not increase. Thus, it has obtained a real power of control in place of that vexatious meddling with details, by which, with no economical results worth having, it used to contrive to disgust every Local Government in India. I shall not speculate on the future. I content myself with expressing my conviction that the principle which has now been admitted will receive a much wider development hereafter.

I have heard it said that the only real result of these measures will be to throw upon the Local, instead of upon the Imperial, Government, the obligation of raising, by unpopular taxation, the funds necessary for carrying out, on an extravagant scale, all sorts of local improvements. The best answer to such assertions is to be found in the measures themselves which the Government of India proposes, and to which the legislature is about to be asked to give its approval. As a fact let us see what is proposed.

The Government would have been very glad, as it has publicly stated already, if the condition of the finances had made it possible to give to the Local Governments increased powers for the management of their local finances, without reducing the grants for the services transferred. It was impossible to do this completely, and at the same time to carry out the determination to reduce the income-tax to the utmost practicable extent. The actual burden transferred to local resources has, however, been extremely small. The grants assigned to the Local Governments throughout India for 1871-72 are less by only £330,000 than the grants for the same services in the current year; and if the comparison be made, not with the budget-grants, but with actual

expenditure, the Local Governments will be able to spend, from the imperial revenues, almost as much next year as they have spent this year. The differences are so small that they could probably, in most provinces, be made good, if the Local Governments so desired, by reduction of expenditure without any additional taxation. The imperial grants for the current year were, however, fixed on as economical a scale as possible, and they left little margin for expenditure on public improvements however urgently wanted. It was, therefore, thought right to give to those Local Governments in this Presidency which have no legislatures of their own, power to supplement, to a moderate extent, their existing local funds by fresh local taxation. The Bill which I now ask leave to introduce is one of the measures for this purpose. The measures for the other provinces will be very similar in character, and they will afford to the public the best possible opportunity of judging whether it is true that the remission of the income-tax by the Supreme Government is to be followed by the imposition of objectionable taxes for so-called local purposes.

In the case of Oudh, the imperial grant for provincial services for the coming year will be less by £15,500 than the grants of the current year. Savings will no doubt be made by the Local Government, but I cannot now state their probable amount. On the other hand, there are many local works, especially railway-feeders and other roads, which are very urgently required. As the Chief Commissioner has said, 'for a fertile grain-producing country like Oudh, each facility added to the transit of its produce is a direct addition to its wealth and an enormous benefit to less productive provinces. To meet this demand for roads the local funds are completely overstrained.'

The Local Government of Oudh proposes to raise the necessary funds by imposing a light rate upon the land, and the present Bill is intended to give the requisite powers. It proposes to authorize the imposition, on every estate, of a rate not exceeding one and a quarter per cent. on the annual value of the land, as recorded at the settlement. The land-revenue demand in Oudh is estimated as equal to one-half of the gross rental of the land. The cesses already levied for roads, schools, and other local purposes, amount to one and a quarter per cent.; and it is now proposed to raise one and a quarter per cent. more.

It is important, I think, to remark that these local rates differ essentially in their nature from the land-revenue. They are taxes imposed on the land for local purposes. The land-revenue, on the other hand, is that portion of the rent of the land to which, in accordance with the immemorial custom of

the country, the State, as superior proprietor of the land, is entitled. But although the land-revenue is not taxation, its amount necessarily affects very closely the question, when we have to consider the propriety of placing fresh taxation on the land: for it might happen that the share of the rental taken by the State was so large that no room would be left for taxation. Nobody can say that this is the case in Northern India. The truth, I fear, rather is that we have been sacrificing, by our existing system of settlements, a vast income, which, as all classes of the people, including the private proprietors of land themselves, admit, has always belonged to the State. This is a great question, into which I do not now propose to enter, but I wish to state a few facts to illustrate to the Council what I believe to be the truth regarding the pressure of the land-revenue demand in Northern India. My particular illustrations will be taken from the North-Western Provinces, but in principle everything that I am about to say applies equally to Oudh and the other more advanced provinces. Under the old settlements for thirty years, which have now for the most part expired in the North-Western Provinces, the share of the rental to which the State was assumed to be entitled was sixty-six per cent. Such men as Mr. Thomason, and the other most experienced officers of the time, were satisfied that this share was not excessive. If it was not in accordance with ancient custom and with the feelings of the people, I believe that the main divergence was really this, that never had any Government, at any previous time, taken so little. The proof that the demand was not excessive seems to me to be absolutely complete. The best proof that can be given consists in the fact of the vast progress in wealth and prosperity which the North-Western Provinces have made during the last thirty years, and in the growth of private property in the land of immense value. Under the present system of settlement, we take fifty instead of sixty-six per cent. Why this change was made, I cannot say. So far as I have ever been able to discover, it was made in 1854 by the Lieutenant Governor of the North-Western Provinces on his own authority, and without any serious discussion. In reality, we do not even get fifty per cent., because the annual value of landed property goes on constantly and rapidly increasing. An example has lately come before the Government of India, which illustrates what is happening. It is my belief, and it would not be difficult, I think, to show that my belief is based on solid grounds, that this example is by no means a singular one. Although the case is a strong one, and perhaps an extreme one, it may, I believe, be fairly taken as an illustration of a process which is very generally going on. In the Bulandshahar District of the North-Western Provinces, settlement-operations have been in progress for some time past. About five years ago the assessment was completed. The

proper amount of the land-revenue was determined to be £123,000 a year. The Lieutenant Governor subsequently ordered a special inquiry to be made, and the conclusion arrived at by Sir William Muir, than whom there can be no higher authority, is that, although the sum of £123,000 really represented, only five years ago, an amount equal to fifty per cent. of the rental, so great and so rapid has been the increase in the value of landed property, that it is now equal to only about thirty-five per cent. In other words, the annual rental of the private proprietors has increased fifteen per cent. in five years. If a new settlement were now to be made, we should get, under the present system, £141,000, instead of £123,000 a year; and if the rates of the old settlement were in force, we should get £188,000. Under the latter supposition, we are losing £65,000 a year, and the total result of the new settlement for thirty years will be that, by the time it expires, we shall have given away to private parties, in this single district, no less than £1,950,000, which, under former rulers, would have been received by the State. The great present disproportion between the rental of the land and the Government revenue is the result of the great increase which has taken place in rents. This has been caused, partly by the settlement of the Government demand, and partly by the increased value of agricultural produce and the increased wealth and prosperity of the country.

This is a good example of the process going on over almost the whole of India. We have spent, and are spending, millions of money on canals and roads and railways. Other branches of industry have doubtless benefited, but no industry has derived from this vast outlay anything like the benefit which has been derived by the proprietors and occupants of the land. By the extension of canals, by the improvement of railway and other communications, and the opening out of new and profitable markets, an enormous increase has taken place in the value of agricultural produce, and the additional value which has been given to the land has been given at the expense of the State without the expenditure of any capital or labour on the part of the proprietors of the land. Such facts as these show, in my opinion, conclusively, that the land ought to bear the main portion of the charges which have to be incurred for further extensions of roads and similar improvements.

In throwing such charges on the land, we are not really imposing on the land a fresh burden. We are only recovering the cost of a small portion of the vast benefit which we have conferred upon the land. If we act wisely on these principles, we shall have little difficulty about the provision of funds for works of local improvement, and we need hear no more of heavy income-taxes or any other unpopular imposts.

The rate proposed to be levied in Oudh will yield about £32,000 a year. The land-revenue is now £1,360,000. It may be imagined from these figures how trifling the new charge will really be.

Before making these proposals, the Chief Commissioner discussed the matter with the principal landholders of Oudh, and the most influential and wealthy of the representatives of the taluqdárs have signified to the Chief Commissioner their approval of the measure.

The particular provisions of the Bill may be more properly explained when it is before the public. I propose to ask your Excellency to order the immediate publication of the Bill, with the whole of the correspondence between the Government and the Chief Commissioner of Oudh regarding it. I need now say only a few words on this part of the subject.

The proposed rate will be identical in its nature with the cesses for roads, schools, and other local purposes, which have long been levied, and with which the people have been familiar since the establishment of the British Government in Oudh.

The Bill imposes on all cultivated land in Oudh a rate not exceeding one and a quarter per cent. on the annual value of the land. The rate will be payable by the landlord; but where there are co-sharers, under-proprietors, or tenants with rights of occupancy, who intercept a portion of the annual value of the land, he will be entitled to recover from such persons a fair share of the rate. Not less than seventy-five per cent. of the proceeds of the rates in any district must be expended on works of public utility in the district in which they were levied. The Council will see, in the correspondence which will be published, that the Government thinks it of much importance that the principle should be distinctly recognized, that, so far as may be possible, the rates shall be expended for the immediate benefit of the districts in which they are levied. The people of each district should see clearly that the result of imposing the rates has been to give them some advantages which they did not possess before,—such as better roads, better means of education, better water-supply, and so forth. Every effort will be made to induce the principal persons of each district to take an active part in the management of the funds and in the choice of the local works to be carried out, and provisions with this object have been inserted in the Bill. In Oudh, where the taluqdárs possess so much influence, and where they have shown, in regard to the measures now under consideration, so much public spirit and enlightenment, there appear to be peculiar facilities for carrying these principles into effect. It is

hoped that it may be found possible to induce many of the taluqdárs and other English and Native gentlemen holding no offices under the Government to take an active part in the administration of the funds which it is proposed to raise.

There is only one other point to which I wish to refer. My hon'ble friend, Mr. Inglis, will presently ask for leave to introduce a Bill for imposing duties on certain classes of traders in the North-Western Provinces, with the object of supplementing the provincial funds. Although it is thought desirable to take power to introduce this measure into Oudh, if it should hereafter seem expedient to do so, it is not now proposed actually to put it in force. For present purposes, the rates imposed on the land will give all the funds that are required."

His Honour the LIEUTENANT GOVERNOR said that, after listening to the views which the Hon'ble Mr. Strachey had expressed with reference to the system of local finances which had been so recently initiated, he could not allow the opportunity to pass without stating in this Council on his own behalf, as representing one of the Local Governments, what he believed other Local Governments would share with him, his very hearty and entire concurrence with the expressions that had fallen from his hon'ble friend. He might call himself a sort of ante-diluvian Finance-reformer, having advocated measures of this kind when they were not thought possible, and he thought himself specially fortunate to have the opportunity of trying to carry into effect the measures of financial reform which had been so recently initiated by the Government of India. It was true that he felt, as most of the other Local Governments also felt, that perhaps the Government of India had not treated them so liberally as a well-to-do father might treat his sons when he had thrown them into the world for the first time. It was true, as his hon'ble friend had indicated, that the sums assigned for local purposes had been somewhat reduced. The horse presented had been somewhat starved for a year or two past, and there had been also an additional cutting of the allowance made for his future keep. At the same time, on the principle of not looking a gift-horse in the mouth, he thought that they need not say too much of these drawbacks, and he wished to express his willingness to undertake the task which had been thrown upon him and upon those who assisted him in the Government. He hoped that, although the incomes which had been allotted to the Local Governments were somewhat short and also unelastic in character, still, by doing all we could, by going here and there and trying to make an honest penny in some way, and also by better management and looking after the Departments which had been given over, we might

succeed, in the course of the next two or three years, to show that the horse had increased in size and condition, and was altogether in better form and more capable of doing the work required of him.

His Honour most heartily concurred in the remarks which had been made with reference to the obligation which India lay under to the Hon'ble Colonel Strachey for his assistance in establishing a system of local finance. He was quite sure that, although we might not agree with him on all points, we all extremely regretted that we in this country were likely to lose his co-operation and services. Allusion had been made to the Public Works Department, in which he had also rendered important services. His Honour had only to express the hope that, before leaving India, he would add to our obligations by suggesting a new system in his own Department, giving greater scope for local management and control in the Department of Public Works; for His Honour was sure that that Department was one which, up to this time, had not worked well under the present system—a system under which, as the Hon'ble Mr. Strachey had described it, much that was false and illusory in the way of centralization was carried to a greater extent than in any other Department. His Honour's experience was that there was a very great deal of truth in the common complaint that the administration of the Public Works Department had been too much centralized, in a sense which was not the best sense. He was quite sure that his hon'ble friend was much more competent than he was to suggest what should be done; but he believed that it was very much needed that more efficient control should be given to the Local Governments in respect to this Department, and that the checks upon them should be rendered less harassing and more efficient. He had again to express his hope that, before leaving India, his hon'ble friend would leave us as a legacy a scheme for curing the evils to which he had alluded in connection with the Public Works Department.

He would only say one word with respect to the observations that fell from the Hon'ble Mr. Strachey, in regard to the land-revenue as connected with the subject of this Bill. His Honour thought Mr. Strachey had clearly shown to us, and he entirely concurred with him, that we were needlessly sacrificing a good deal of the land-revenue. It seemed to him that, in some districts of the North-Western Provinces, we were sacrificing that revenue to an unnecessary degree. It was true that, in these days of liberal treatment in financial matters, it had been considered desirable that, instead of giving landholders one-third of the rents as their share, as we formerly gave to them, we should now give them one-half. But the system under which we were

conducting the settlements in the North-Western Provinces resulted in giving the proprietors more than one-half of the rents. For we knew that the land-owners were not likely to enhance their rents before the settlement, but had proceeded to do so immediately after the settlement. The difference in the proportion of the rents taken as revenue by the Government, which Mr. Strachey had shown to have already appeared in some districts, would be much more perceptible ten or twenty years hence. He thought it was extremely probable that the settlement of revenue which was made in the proportion of fifty per cent. of the existing rental, would, before the lapse of twenty years, be found scarcely to amount to twenty-five per cent. Therefore, he did think that it was a matter for consideration whether, where the land-revenue was in our own hands, where it was not settled permanently, and we had the power to raise it, it might not be desirable to add something more directly to the land-revenue for what he might call provincial services. He doubted whether funds raised as local rates could properly be applied to provincial works, such as a road of a large character not local to one or even to two or three districts. He was inclined to suppose that those services could hardly be termed local which would apply to works constructed for the benefit of a particular locality, but that they should be called provincial, as being for the benefit of a whole province. He had even some doubt whether, for some of the purposes of local rating, a large Indian district was not too large an area, *e. g.*, whether a man who paid for a road fifty miles off at the other end of the district would consider that he was paying for his own good. It was a question, to his mind, whether, in those provinces where you had the power of dealing with the land-revenue, it would not be better directly to increase the land-revenue and to include in the grant for the provincial budget some considerable roads which were now called district roads. In fact, in considering the subject of local rates, we should be careful to see whether it might not be possible for some purposes to reduce to smaller areas the districts within which the rates should be levied, and so bring home more distinctly to the people the local objects for which they were rated for their own benefit.

The Motion was put and agreed to.

LIMITATION OF SUITS BILL.

The Hon'ble MR. STEPHEN asked leave to postpone the presentation of the report of the Select Committee on the Bill for the Limitation of Suits.

Leave was granted.

STATE-OFFENCES ACT REPEALING BILL.

The Hon'ble MR. STEPHEN moved for leave to introduce a Bill to repeal Act No. V of 1841 (*for the greater uniformity of the process upon trials for State-offences, and the amendment of such process in certain cases*). He would state in a few words how it became necessary to introduce this Bill. For some reason which he did not understand, Act V of 1841 had escaped the operation of several repealing laws passed within the last few years. It was an Act which had been rendered completely obsolete, first by the enactment of the Penal Code, and again by the passing of the Criminal Procedure Code. It related to the trial of State-offences. It provided a uniform procedure for trying charges of rebellion against the State, and made certain provisions with respect to the apprehension of persons accused of such crimes. In 1860, the Penal Code was passed, which did away with the words "treason" and "rebellion," and entirely changed the meaning of the words "crimes against the State." The Code of Criminal Procedure pointed out the manner in which all offences should be tried, and so superseded the provisions relating to procedure. The object of this Bill was not merely to repeal a useless law, but to avoid the practical inconvenience which had been found to exist from its remaining unrepealed. Certain officers had misapprehended some of its provisions and carried them out in a way which, in point of fact, it did not authorize. He need not mention the particular instances of this kind that had occurred. If—which he did not expect—it ever became necessary to make special provisions for the trial of State-offences, it would be easy to do so, but at present the ordinary powers and ordinary procedure for the trial of such offences were sufficient.

The Motion was put and agreed to.

ÁBKÁRÍ BILL.

The Hon'ble MR. INGLIS presented the report of the Select Committee on the Bill to consolidate and amend the law relating to the Ábkárí Revenue in Northern India.

LICENSE (N. W. PROVINCES AND OUDH) BILL.

The Hon'ble MR. INGLIS also moved for leave to introduce a Bill for imposing a duty on certain trades and dealings in the North-Western Provinces and Oudh. He said that the Hon'ble Mr. Strachey, in his speech on the proposed Bill for the levy of a rate on land in Oudh, had entered so fully into the objects and intention of the Resolution of the Government of India, dated the 14th December last, that it was unnecessary for him (MR. INGLIS) to say anything further on that subject.

By that Resolution, which conferred upon the Local Governments the administration of certain departments of the public service specially connected with local provincial requirements, the total amount of the grant hitherto made for these services in the North-Western Provinces had been reduced by £48,000. But the amount of the grants made from the imperial revenue during the past few years, on which the permanent assignment had been calculated, had been, especially in the Public Works Department, considerably below the actual requirements of the provinces. Consequently, it was necessary, not only to provide funds to meet the deficit caused by the reduction made in the imperial grants, but also to provide funds to enable the Government to carry out many local improvements which were urgently required, such as roads to connect the railways now open, or in course of construction, with the towns and districts in their neighbourhood.

His Honour the Lieutenant Governor of the North-West, after a very careful scrutiny into the wants of each department of which the charge had been transferred to him, found it necessary to raise, by new taxes, a sum of about £130,000.

The Governments of the North-West and Oudh proposed to raise a part of this sum by a license-tax on persons carrying on certain trades and dealings.

The Bill which he had now to ask leave to introduce gave them the necessary powers.

It was proposed to exempt all artizans, and the tax would fall exclusively on persons carrying on trades and dealings, and on certain specified trades and dealings only.

For the purposes of the Act, trades and dealings had been divided into three classes, charged, respectively, with six, four and two rupees a year. It was believed that the rates fixed were such as could be paid without inconvenience by the least competent of each class.

The selection of the trades and dealings to be taxed, and their classification, had been very carefully considered. The principle followed had been to subject to the payment of a license-tax those trades and dealings only of which it might be safely assumed that all the persons engaged in them were in a position to pay the amount fixed, and to exclude wholly all trades and dealings of which only a part of the persons carrying them on could be taxed.

The mode of assessment and collection proposed would, it was believed, secure to the Government and to the tax-payers the minimum of fraud and inconvenience.

The estimated yield of the tax in the North-West was between nine and ten lákhs. For Oudh, no estimate had as yet been framed.

The Motion was put and agreed to.

LOCAL RATES (N. W. P.) BILL.

The Hon'ble Mr. Inglis then moved for leave to introduce a Bill to provide for the levy on land of rates to be applied to local purposes in the North-Western Provinces. He said that landlords holding estates in the temporarily settled districts of the North-West, of which the settlements made under Regulation IX of 1833 had expired, already paid a heavy cess of ten per cent. on their jamas towards local requirements. This cess had hitherto been levied by an order of the Executive Government; it was proposed that it should be levied in future under the provisions of the Bill he had now to ask leave to introduce.

But landlords holding estates in the permanently settled districts paid at present only one per cent. on their jamas towards local funds. The amount realized by this cess was altogether inadequate to the wants of these districts, and the landlords might, with justice, be called upon to contribute more largely towards local requirements, provided this could be done without a breach of the engagements entered into with them, when the permanent assessment of their estates was sanctioned; and also that the imposition of the cess proposed would not press too heavily on their resources.

The permanent assessment of the land-revenue was introduced into the Province of Benares by Regulation I of 1795. The object of the Regulation was to introduce into the Benares Province the system of interior administration already established in Bengal, of which the limitation of the annual revenue payable from the land formed an essential part. The Regulation was not intended to accord to Benares any concessions other than those accorded to Bengal. The landlords of the two Provinces were placed on the same footing in regard to the assessment of the land-revenue, and in either case, whether, as in Bengal, directly, or, as in Benares, by implication and analogy, the State debarred itself from any augmentation of the public assessment on landholders in consequence of the improvement of their respective estates. Conversely, any further demand in the shape of local cesses or rates, which might be determined to be payable by Bengal, would be equally payable by the Benares Province, and the

Secretary of State, in his Despatch No. 5, dated 12th May 1870, had ruled that, under the existing law, the State had the right to impose special rates or taxes on the holders of land in Bengal, in order to raise funds for local wants and improvements which the existing revenue was insufficient to provide.

This ruling covered the case of the holders of estates in the permanently settled district of the North-West, so far as their liability to the payment of a rate towards local wants, irrespective of the amount of their land-assessment, was concerned.

As regards the expediency of levying a rate on the landholders in the permanently settled districts, the remarks of the Secretary of State in his Despatch, dated 12th May 1870, although written with reference to Bengal, applied equally to the North-West. It was there said—"it cannot be maintained that the people of Bengal are less able to afford such rates than the people of other Provinces in India. In so far as the permanent assessment makes any difference in their case, it is a difference in their favour with respect to the other demands made upon them by the State. A large portion of the produce of the soil, which, even at the most moderate assessment made elsewhere in India, would have been appropriated by the State, has been left in the hands of the various classes connected with agriculture, and has contributed to increase the general wealth and resources of the Province."

These remarks applied equally to the permanently settled districts in the North-West. The pressure of the land-revenue was extremely light; and the classes owning and occupying the soil were well off.

It was clear, therefore, that, whether on the ground of right or of expediency, there need be no hesitation in imposing, under the conditions laid down in the Secretary of State's Despatch, a rate for local purposes on the owners of estates in the permanently settled districts of the North-West. Accordingly, the Bill which MR. INGLIS had to ask for leave to introduce provided for the levy of a rate not exceeding two annas on each acre of cultivated land in those districts, giving the landlord power to recover from his tenants one-half the rate assessed on the land held by such tenants.

The estimated yield of the rate proposed was £36,000.

MR. INGLIS wished, with reference to what had been said by the Hon'ble Mr. Strachey with regard to the settlements now in progress in the North-West, and of the loss sustained by Government in consequence of the reduction in the demand on account of land-revenue from sixty-six to fifty per

cent of the assets of each estate, to point out that, when the settlements under Regulation IX of 1833 were made, the assessment fixed on each estate was based upon an estimate framed by the Settlement Officer of what the estate could fairly be required to pay with reference to its past history and present condition, rather than upon an accurately calculated percentage of its assets. MR. INGLIS' experience of the settlements under Regulation IX of 1833 shewed that two-thirds of the assets were rarely taken, and that, when this was done, the settlement had either to be revised, or was paid with difficulty until the landholders were able, by bringing fresh land under cultivation, to bear the pressure of an assessment under which they would have broken down, had they not had this margin to fall back upon.

This margin of cultivable land no longer existed; almost every acre of land had been brought under cultivation. In some parganas the area under cultivation amounted to over ninety per cent. of the cultivable area; the landlords had consequently nothing to fall back upon, and could only look for increased profits, after the revision of the settlement of their estates, from an enhancement of the rents paid to them, which they might hereafter be able to impose, in consequence of a general rise in prices throughout the North-West.

The case of the Bulandshahar settlement, to which the Hon'ble Mr. Strachey had referred in support of his argument, was altogether an exceptional one, and must not be taken to represent the revised assessments in other districts of the North-West. The revised assessment of that district was made before it had recovered from the effects of the famine of 1860, and before the commencement of the rise in rents which had since taken place throughout the Province. MR. INGLIS did not deny that the assessment of that district was now below fifty per cent. of its present gross rental, but this was not owing to the principles under which the settlement was made, but to a general rise in rents, which had since taken place, and which it was utterly impossible for the Settlement Officer to foresee. It was no doubt probable that the settlements of other districts would be found, fifteen or twenty years hence, to be less than fifty per cent. of their gross rental, as it then existed; but if this were so, it would be owing to a rise in prices which, though anticipated, could not be taken into consideration when fixing the demand to be paid as land-revenue, and was an argument against a thirty-year settlement, rather than against the system under which the revenue demand was now being fixed in the North-West.

His Honour the Lieutenant Governor of Bengal remarked on the loss sustained by Government in consequence of the demand for land-revenue being

based on rentals kept purposely low by the zamíndárs, who, after the settlement of their estates had been confirmed, enhanced the rents of their tenants, and thus gained a large profit, part of which ought to have come to the State in the shape of an enhanced demand for revenue. In reply to this, MR. INGLIS would point out that the revised assessments in the North-West were not based on the jama-bandí given in by the zamíndárs, nor on the actual existing rental of an estate, but by the application to each estate of the rents found, after careful inquiry by the Settlement Officer, to prevail for each class of soil in the tract in which the estate under assessment was situate,—that is, the standard of assessment applied to each estate was fifty per cent. of the full rental which might be levied on each acre in it, according to the prevailing rates of rent in the tract in which it lay, whether the owner levied these rates or not. This was the standard for assessment. Whenever a Settlement Officer found it necessary to depart from it, he had to explain his reasons fully in his assessment remarks.

MR. INGLIS was convinced that an assessment of fifty per cent. on the assets of each estate, framed on these principles, considering the other heavy demands imposed on the landlords in the shape of cesses—lambardárs' fees, patwárí-fees, and village-expenses—was quite as much as any estate could bear, and he believed that every Settlement Officer in the North-West would support him in this opinion.

His Honour the LIEUTENANT GOVERNOR said that it would not be advisable to enter at present on any discussion of the principle of this Bill: he would therefore confine his remarks to one point, which was with regard to the mode of levying the proposed rate in the permanently settled districts, which it was proposed to raise, not by an assessment of the rental, but on the acreage of the land. That plan of levying the rate on the acreage was different from the plan proposed for Oudh, and it was different from anything that was possible in Bengal, and was entirely different from anything which prevailed in the British Isles and in other parts of the world, so far as he was aware. Therefore, he hoped he might be allowed to throw out this suggestion that, if the Hon'ble Member adhered to the plan proposed, it would be necessary that he should be prepared to show good reason to this Council for maintaining that system. It stood to reason that, *primâ facie*, it was not equitable that good land and bad land should pay equally for local works or for any other purpose. Since the subject of the settlement of the North-Western Provinces had been broached, and as there was a considerable difference of opinion on the point, he would say one word in respect to his own experience of that settlement. The Hon'ble

Mr. Inglis had truly said that, probably, when the settlement of 1841 was made, we had not an accurate account of the rental of lands; but he thought that the want of exactitude told rather against the landholders and not in their favour. His Honour had served in the North-Western Provinces for several years immediately after the conclusion of that settlement, and his impression was, that the result of that settlement was that the landholders had, at that time, scarcely a clear one-third of the rental for their profit. He believed that the settlement that had now been made had proceeded on more exact data with respect to existing rents, which was telling against the State and in favour of landlords. The result of the settlement of 1841 gave, in round numbers, a revenue of four crores of rupees, or four millions sterling; and he was told that the result of the new settlements would be to give to the State not more than four and a half millions at the outside. Now, if we compared the state of the country at that time, and the state of the country at present; if we considered that the former settlement was made shortly after the great famine of 1837, which far exceeded in severity any other famine that we had had in that country; if we considered that railroads and roads were not made at that time, and there was not one tithe of the means of developing the resources of the country that we now possessed; if the North-Western Provinces were capable of bearing, in 1841, when that settlement was made, without serious complaint, a revenue of four millions—it seemed to him that, if the land was called upon to pay a revenue of only four and a half millions between the years 1871 and 1901, the new assessment would be infinitely lighter than the old assessment, and that the Hon'ble Mr. Strachey was right in saying that we were giving up a very large proportion of our land-revenue in the North-Western Provinces.

The Motion was put and agreed to.

LOCAL RATES (PANJÁB) BILL.

The Hon'ble Mr. Ellis moved for leave to introduce a Bill to provide for the levy of local rates in the Panjáb. He said that he did not intend at once to introduce this Bill in the same manner as was proposed with regard to the similar measures for the North-Western Provinces and for Oudh. The reason for the difference in the course of proceeding was this—the draft Bill had been received from the Lieutenant Governor of the Panjáb, but on an examination of its provisions it appeared to require some modifications. It would manifestly be improper to make any material alterations in the Bill without consulting the local authorities. There had been no time for such consultation, and it was

thought better to postpone the introduction of the Bill, so that, when the Council adjourned to the Panjáb, the Lieutenant Governor would be able to take his seat and advise the Council in the matter, or at least we should be able to secure full and free discussion with the local authorities.

Under these circumstances, it was deemed not advisable to introduce this Bill immediately. It would perhaps suffice to say, at present, that the provisions of the Bill would be similar in character to those proposed for the North-Western Provinces and Oudh, due regard being had to the local requirements and local circumstances of the Panjáb.

The Motion was put and agreed to.

The following Select Committee was named :—

On the Bill to consolidate and amend the law relating to advances of money by the Government for the improvement of land——The Hon'ble Messrs. Stephen and Ellis, Colonel the Hon'ble R. Strachey and the Hon'ble Messrs. Chapman, Cockerell, Inglis and Robinson and the Mover.

The Council adjourned to Friday, 17th March 1871.

CALCUTTA,
The 10*th March* 1871.

WHITLEY STOKES,
Secy. to the Govt. of India.

Office Supdt. Govt. Printing.—No. 4830 L. C.—17-3-71.—200.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Government House on Friday, the 17th March 1871.

PRESENT:

His Excellency the Viceroy and Governor General of India, K. P., G. M. S. I., *presiding.*

His Honour the Lieutenant Governor of Bengal.

His Excellency the Commander-in-Chief, G. C. B., G. C. S. I.

The Hon'ble John Strachey.

The Hon'ble Sir Richard Temple, K C. S. I.

The Hon'ble J. Fitzjames Stephen, Q. C.

The Hon'ble B. H. Ellis.

Major-General the Hon'ble H. W. Norman, C. B.

Colonel the Hon'ble R. Strachey, C. S. I.

The Hon'ble F. S. Chapman.

The Hon'ble J. R. Bullen Smith.

The Hon'ble F. R. Cockerell.

The Hon'ble J. F. D. Inglis.

The Hon'ble D. Cowie.

The Hon'ble W. Robinson, C S. I

BROACH TALUQDÁRS' RELIEF BILL

The Hon'ble MR. CHAPMAN, in asking for leave to postpone the presentation of the rpeort of the Select Committee on the Bill to relieve from incumbrances the estates of Taluqdárs in Broach, said he had only that morning received a communication from the Bombay Government which he wished to place before the Select Committee before they made their final report.

Leave was granted.

STEAMER SURVEY (RANGOON) BILL.

The Hon'ble MR. CHAPMAN also introduced the Bill to provide for the survey of steam vessels in the Port of Rangoon, and moved that it be referred

to a Select Committee with instructions to report in a week. He did not think it necessary to trouble the Council with any explanation in detail of the provisions of this Bill. The Bill was nothing more than the law at present in force under local legislation in Calcutta and Bombay, and would enable the Chief Commissioner of British Burma to have steam vessels surveyed in the same manner as was done at present in Calcutta and Bombay.

The Motion was put and agreed to.

INCOME TAX BILL.

The Hon'ble MR. STEPHEN asked His Excellency the President to suspend the Rule for the Conduct of Business which provided that a Bill must be in the hands of Hon'ble Members a fortnight before it could be introduced. He made this request in order that the Bill for imposing duties on income might be introduced. The Bill had been published in the *Gazette* for nearly a week.

The President declared the Rule suspended.

The Hon'ble SIR RICHARD TEMPLE introduced the Bill for imposing duties on income, and moved that it be referred to a Select Committee with instructions to report in a week. He said that although the Bill might have been a very few days in the hands of Hon'ble Members, still the most ample publication had been given to the Bill for some days past, and he believed, therefore, that the object and intention of the Rules of the Council had been given full effect to. On the 9th of this month he obtained leave to introduce this Bill, for the reasons which he then submitted at considerable length to the Council. When the Council gave leave to introduce this Bill, he presumed that they were, or at least a majority of them, satisfied that some such measure as he then recommended on behalf of the Government of India was necessary. On that assumption, he would not at the present moment at all attempt to recapitulate any of the grounds which he then brought forward. He would restrict himself at present simply to introducing the Bill, and would endeavour by a few brief remarks to shew that the Bill did really and truly carry out, as explained in his last exposition, what he presumed had the general approval of the Hon'ble Members present. He had said that the most important provisions of the Bill were those which related to the rate of assessment and the classes of incomes to be assessed. The present Income Tax Act (XVI of 1870) imposed a duty of $3\frac{1}{8}$ per cent., or six pies in the rupee, on all incomes of Rs. 500 and upwards. The new Bill imposed a rate of only $1\frac{1}{12}$ per cent., or two pies in the

rupee, and it would affect only incomes exceeding Rs. 750 per annum. He need not enlarge on either of those important provisions, as they were fully explained in his exposition.

Besides these, there were certain changes introduced in this Bill as compared with the existing law. There were eleven points in which these changes were proposed, to each of which he would, with His Excellency's permission, briefly refer.

If the Council would refer to the 13th section of the Bill, they would find that the Collector was empowered, on the present occasion, to require officers of companies and corporations to attend and produce accounts. The reason for this amendment had arisen in this way. The Council would recollect that companies and corporations were assessed on their published returns. In the case of individuals, where the Collector had doubts, he surcharged, notwithstanding that such charge might not be strictly in accordance with the returns before him; but in the case of companies and corporations, the Collector had nothing but the return to go upon; there was no provision for surcharging them.

That being the case, it became of great importance that the return should be strictly and correctly rendered according to the requirements of the law, and if the Collector had any doubt of the accuracy of the return, he might be able, by the examination of details and by the attendance of the Secretary or other responsible officer of the company who rendered the account, to satisfy himself of the correctness of the return. There were instances known of returns which were found not correct, notwithstanding the perfect *bonâ fides* of the person rendering them. Mistakes might be made from misapprehension, and instances had occurred of companies and corporations voluntarily amending mistakes which had occurred; and under these circumstances it was deemed of great importance that the Collector should have the power of examining the returning officer touching any points on which he might have doubts. This condition would be generally admitted to be reasonable.

The next point was this. If the Council would refer to the 15th and 16th sections of the Bill, they would find that the duty on Government securities must be deducted at the place where the interest was paid. The Council would see that the real object of this provision was to provide for the complete taxation of incomes derived from Government securities. It would be in the recollection of the Council that Mr. Wilson's Income Tax Act of 1860 did provide, in the same manner as now provided, for the taxing

of this class of incomes at its source, that is to say, at the places where interest was paid. When that Act expired, and Mr. Massey's License Tax and Certificate Tax Bills were passed, those taxes being merely taxes on trades and professions, it was not found necessary, and indeed it was not deemed proper, to make any strict provision for taxing incomes derived from the Funds. In 1869, when these two License Acts were followed by an Income Tax Act, the new Income Tax Act being intended to be a very light one, and using only the somewhat rough procedure of the License Tax, no specific provision was made with regard to incomes derived from the Funds. The same course was followed in the Income Tax Act of the present year, 1870-71. During this year we found, on full consideration, that this important class of incomes could not be properly taxed, unless some such provision as that which we now proposed was introduced. No doubt, returns being called for of all classes of income, it might be presumed that the persons from whom these returns were demanded would include incomes derived from the Funds, and in many cases the returns did include such income. Still, it was a known fact that, from some misapprehension or other cause, in many instances, incomes derived from the Funds were not included in the returns, and were therefore not brought under assessment. That was one reason for the introduction of the provision to which he was alluding. Another and more important reason was this, that without this provision it was impossible to tax incomes derived from what was known as enfaced paper. It was a common practice for parties in this country to send Home their Government promissory notes duly enfaced for payment of interest in London. Mr. Wilson's Income Tax Act specifically provided for the taxing of incomes derived from enfaced paper; consequently, when enfacement was made for the payment in London of interest on Government securities, there was a provision that such interest should be paid subject to the deduction of the income-tax. This condition ceased with the expiry of that Act, and all paper enfaced for the payment of interest in England was enfaced without this condition. In that way, several millions worth of Government securities were sent Home for the payment of interest there; for, of course, the practice of enfacing paper for the payment of interest in London continued during the period of the License and Certificate Tax Acts of 1867-68-69 and during the period of the two Income Tax Acts since passed. But early in the current year, when we saw that it would become absolutely necessary to tax incomes, we inserted, in all enfacements made in 1870-71, a condition that the interest should be liable to this deduction whenever the legislature might so direct. During the current year, some two or three millions worth of additional paper had been sent Home, and if the proposal now made were assented to by the Council, the whole of the interest on that amount of securities would be

bound by this condition; moreover, it had so happened that, in the course of trade and from other causes, most of the enfaced paper, or at least a great deal of it, found its way back to the country, and afterwards again returned to England. Of course, if it came back to us and had to be re-enfaced, we should be able to insert this condition. The amount at present thus held was very considerable. It was about seventeen millions sterling, and without the provision which it was proposed to insert in the Bill, incomes from that large amount of property would escape taxation. Considering that the object of the Bill was to tax all classes and all kinds of income alike in the most even and just manner, he was sure that the Council would approve of the justice of this provision.

The third point to which he would refer was this. The Council would see that, by the 22nd section of the Bill, the owners of lands or houses occupying the same would be chargeable, in respect of the annual value thereof, at the "rack-rent" at which such lands or houses were worth to be let for the year; and a definition of "rack-rent" was inserted in the Bill. The meaning of the provision was this, that if the proprietor of a house lived in his own house, the rack-rent of the house, that was to say the equitable market-rate at which the house might be expected to let, was to be considered just as much a part of his income as if he had let the house. That, he apprehended, was a perfectly just provision, and was one which was inserted in the first Income Tax Act. It was not specifically inserted in the Acts subsequently passed, but a condition to the very effect was inserted in the rules for the guidance of Collectors, which were passed by the Executive Government in accordance with the power given to the Government by those Acts. However, legal doubts had arisen as to whether it was competent to the Executive Government to insert such a condition in the rules, when no provision to that effect was contained in the Act under which those rules were made.

The fourth point was this. By section 23, the Council would find that the Collector would be bound to serve a notice, in the case of every person chargeable under the Act whose annual income or profits was, in the Collector's opinion, four thousand rupees or upwards. The question of calling for returns, as the Council knew, had always been a vexed one. The object of the Government in making this provision was that as few returns as possible should be required; indeed, that they should not be required at all, from all the smaller classes of tax-payers. But it was found that the assessment could not be made on the larger incomes unless on the basis of a return. The question then was, to what limit should the requiring of returns be restricted? The limit under the existing Act was two thousand rupees; that was however considered too low,

and might lead to more inquisition than was desirable. Considering that this was a provision solely to save trouble to the tax-payers, he was sanguine that the Council would approve of it.

The fifth point was this. Every person served with a notice would be required to return his income for the three years before the date of the notice, and state the period during which such income had accrued. To this point he might add the sixth, which was, that the assessment would be made, according to section 27, on the average of the income of the three years preceding, and such average would be computed upon the period during which the income had actually accrued. The meaning of that was, that every tax-payer of the higer classes should give in a return for three years, and the assessment would be made on the average of the three years preceding. This, perhaps, was of some importance in respect to assessment. The Council would recollect that, in the first Income Tax Act, the law was that every person liable to the payment of the tax was to render a return for the year preceding, and on that return the assessment was to be made; if the correctness of the return was doubted by the Collector, he might surcharge. It was felt to be rather an invidious task to surcharge at all. But if you did surcharge, you must surcharge on one year's return. That raised a certain amount of controversy between the Collector and the tax-payer; and in the existing law, we provided that the Collector was not bound to assess on the return of the preceding year, but he was to make an assessment on the datum of that return for the next year. The tax-payer was to make a return for the year preceding, and to state, as a matter of anticipation, whether he expected a large or a small income for the year to come. The Collector also was to make an estimate in anticipation, and it was presumed that the mean between these two would be about the income realized. He found that this provision, though milder than that contained in the first Act, also led to a good deal of regrettable controversy between the tax-gatherer and tax-payer. After full consideration, the course we proposed to adopt was this, that the return should embrace a period of three years, and that the assessment must be made, without any question of estimate or anticipation, on the returns so made. If the Collector had a doubt, he could surcharge on those returns; but still the assessment was to be made on the basis of those returns. If these returns were made with anything like correctness, then it must be presumed that the average of the three years would represent the ordinary income of the succeeding year.

The seventh point was this. In section 36, the Council would find that legal practitioners would be excluded from appearing in support of any petition

or appeal under this Act. It would be found that there was a similar provision in the Income Tax Act passed in 1860. It was found practically necessary for the good of our Native fellow-subjects that some such provision should be made. This was proposed without any derogation from the respect due to the legal profession. Generally, no doubt, in the presidency towns, the legal profession held a very high status in the public estimation, and no doubt the advice of such practitioners would be very valuable to tax-payers; but the fact was that, in the interior of the country, the Native branch of the profession notoriously did not hold the same status. There were many persons practising that profession who thought, not so much of their own reputation, as of getting their unfortunate clients into a position whereby their own remuneration might be increased; and it was found that, in many places, these gentlemen waited outside the Collector's doors, and without informing themselves of the facts of the case, advised the tax-payer to make an appeal. Of course, the appeal failed, and the tax-payer, who was sorry to have to pay the tax, was still more so to have to pay also for professional advice. The provisions of the law being extremely simple, it was thought better to interdict the employment of the legal profession. He was confident that a good deal of trouble would be saved, not only to Europeans, but to our Native fellow-subjects, and that no injustice would ensue from this prohibition.

The eighth point was this. Section 37 provided that payment of the tax would be permissible in two, instead of four, instalments. The quarterly payment condition was inserted in the existing law for this reason, that the rate of the tax was somewhat high, and it was supposed that the tax-payers would find relief in paying the tax by quarterly instalments. But now that we proposed to reduce the rate of taxation so much, we believed that quarterly instalments would be no longer necessary; and it was thought that it would quite suffice for the convenience of the tax-payer that he should now pay half-yearly.

Point nine was this. The Council would find that, by section 39, all sums due under the Act would be recoverable as if they were arrears of land-revenue. The meaning of that provision was this. The existing law provided that, if the tax-payer defaulted, the agency of the Police and Magistrates—in fact, the Criminal Procedure to some extent—should be employed. That did appear a rather severe and summary proceeding; and, perhaps, that derogatory mode of enforcing the payment of the tax, which was nothing more than a civil obligation, was not very considerate to the tax-payers. It was not thought desirable that such apparent severity should be employed. It was considered that the provisions for the recovery of the land-revenue, which were most appropriate

and best understood throughout the country, both in the presidency towns and in the interior, were quite sufficient for the purpose, and more considerate.

Point ten was in allusion to section 40 of the Bill, from which the Council would perceive that powers were given to amend the assessment when a person assessed proved that his income had diminished, or that he had given up his business, or when it is proved that he had died or become insolvent. There was no reason why an assessment once made should not be reduced during the currency of the year. Of course, as a general rule, it was of great importance that an assessment, once finally made, should not be subject to revision. If it were not so, it would give rise to doubts and possible misapprehensions. Nevertheless, cases did arise, which would readily suggest themselves to the Council, in which the tax-payer, having been assessed at the beginning of the year, either changed his employment or profession, or went home, or made some other modification in his arrangements, which made him not fairly chargeable with the tax at which he was assessed. A merchant in great business at the beginning of the year, after being assessed, might find it necessary to retire in the course of that year; and it was considered unfair that he should pay a high income-tax for the second half of the year when he had given up business. A case had occurred lately, in which a barrister of great talents, had at the commencement of the year, accepted a seat on the bench. Although that change added to his dignity in office, it would have the effect of very much reducing his income; and it was considered fair that, during his continuance on the Bench, he should not pay so high as when he was in practice at the Bar. And many other cases might occur, which would show the Council how just it was that there should be some provision to meet such cases.

The eleventh and last point was, that the Board of Revenue of Calcutta had furnished us with various valuable criticisms on the details of the Bill; all of which he proposed should be submitted to the Select Committee for their consideration. One important point which the Board raised was about the mode of taxing that peculiar institution called the "joint undivided Hindú family." Those acquainted with the presidency towns would know that such cases had given rise to many intricate questions, which we had not overlooked; but on a full consideration and the equity of the case, we had not proposed any change. If the Board could show any special causes for reconsidering this point, we should be happy to reconsider it in Committee.

There was one more point he had omitted to mention, and it was this, that all orders made under the Act would be final, and that the proceedings of the Collector or Commissioner would not be removeable to, or subject to the

revision of, any Court. This was a provision he need not enlarge upon very much. There were ample tribunals of different grades provided in the Revenue Department in matters of appeal, and it did not seem necessary there should be any further questions raised before the judicial tribunals.

These were all the remarks he proposed to make; and he would not trouble His Excellency and the Council with any further observations, but proceed to introduce the Bill.

The Hon'ble MR. ROBINSON was emboldened by His Excellency's known willingness that the financial policy of the Government of India should undergo frank discussion at this time, to express an opinion on the Bill now submitted to this Council, although that opinion was adverse to its policy.

At the same time, he felt that it might appear presumptuous for a country-cousin like himself to venture to offer remarks on the aggregates of the many budgets of receipts and disbursements for the entire empire, which were of course shown without the details upon which they were based.

But he dared not deny that the impression produced upon his mind by a study of what had been so ably submitted to this Council was that, on the one side, the estimate of revenues for the coming year was pitched unduly low, at a time when the prosperous condition of the country, and the efficiency of the administration, might safely justify a bolder and richer estimate of income; while, on the other side, an increase of charges seemed to indicate undue relaxation of that wholesome economy which had done such credit to the present administration of the finances of India. On the whole, he fully thought that the ostensible budget-deficit of £500,000 might safely be treated as in a great measure unreal, and that it would disappear under a fairer estimate of income and persistent economy in expenditure. And he need scarcely add that, with its disappearance, an imaginary plea for continuing the income-tax, by which it was proposed to meet it, was silenced.

MR. ROBINSON observed that the estimate of Land Revenue for 1871-72 was taken at £300,000 below the actuals of 1869-70. This might be the aggregate of the local budgets for the year; but, conscious as he was of the exceeding caution with which those estimates were framed by local officers, and observant as he had been of the steady and certain advance of this important source of revenue, by extended cultivation and enhanced settlements, he felt that we might confidently invite the Government of India to accept a higher estimate of Land Revenue for the budget under review. Undue caution,

probably, characterised the local budget-estimates of all parts of the empire, and caused needless moderation in the general estimate of income; indeed, the regular estimate for the current year exceeded the budget-estimate by £100,000.

Be this as it might, he felt certain that the steady development of this source of revenue, and the progressive enhancements of the old demands, now in course under new settlements, fully justified confidence that the Land Revenue of 1871-72 would not fall short of the actuals of 1869-70; and that £200,000, if not £300,000, might safely be added to the Income side of the present budget on this account.

Under the head of Excise on Spirits, the actuals of 1869-70 were £2,255,000. The revenue from this source in the current year would not fall short of £2,358,000, being an advance of more than £100,000. There was certainly no obvious ground for anticipating, as was done in the budget-estimate before us, an actual falling off in this important and steadily advancing head of revenue throughout the empire.

The same remark applied to the Customs. The actuals of 1869-70 showed an income of £2,430,000 from this source. The revenues of *this* year of great commercial depression, which was just closing, would amount to £2,558,000, being an advance of nearly £130,000. He thought that, with every probability of a reaction in favour of trade, consequent on a restored peace, it was wrong to assume an absolutely stationary condition of the Customs Revenues, and that the estimates might well and safely provide a liberal increase under this head. A like advance in the year before us would add £130,000 to its income.

He thought that Salt would not fail for a better out-turn than was estimated. And he hoped that the Stamp-law and Court Fees' Act would operate more remuneratively than was anticipated in this budget.

Receipts from Public Works Ordinary were set down in the budget before us at £60,000 below the actuals of 1869-70; and the Irrigation revenues at £40,000 to the bad, when compared with the same standard.

On the whole, he thought that the estimate of Income was too low, and he considered that a moderate, but perfectly justifiable, addition thereto would at once remove any illusory deficit; and with it should efface the blot which the suggested retention of the income-tax in any form put on the financial proposals for the year.

Again, the Expenditure side of the Imperial Accounts shewed, he thought, just cause for regret. We had a long array of items of increased charge (as compared with the regular estimate of the current year of jealous economy), in respect to a variety of services, amounting on the whole to £413,000. So far as these additional charges had been explained to us, they were sought to be justified as being anticipatory of an increased revenue under the various heads. For this response he had, as stated before, searched, in some respects, in vain on the Income side.

		£
4.	Land Revenue ..	120,500
5.	Forest ...	65,100
6.	Excise ...	21,400
8.	Customs ...	8,400
9.	Salt ...	46,200
10.	Opium ...	37,900
11.	Stamps and Stationery	11,600
15.	Administration ...	74,200
16.	Minor Departments...	16,700
19.	Ecclesiastical ...	11,200
		£ 413,200

Some of these increased charges, he doubted not, would be found susceptible of moderate diminution in any case; and others should clearly be required to stand over, until equilibrium was restored by other means than by continuing the income-tax, even in a modified form.

Further adjustments might clearly be made by slightly reducing the grant for Public Works Ordinary; and projects which had already stood over long might well await an equilibrium derived from ordinary sources of revenue, unless the Government of India were willing to adopt, as they safely might, a better budget of income.

On the whole, a deep conviction had been created in his mind by the examination of the budget, that if the Hon'ble Finance Member were earnestly desirous to relieve the people from this, to them very offensive and inquisitorial, tax, he might on this occasion enable the Government of India to do so with perfect safety, and without in any way endangering the financial equilibrium, or unreasonably impairing the efficiency of the State services. And we might, Mr. Robinson thought, confidently invite the Government of India boldly and generously to undertake the financial administration of this year on the abundant and prosperous income which the country would assuredly render, without resorting to a tax, which the embittered feelings of the people and the, to them, costly administrative changes which had been inaugurated during the year, had made it both necessary and possible to abandon.

Mr. Robinson would not trouble this Council with general observations on the subject of an income-tax *per se* as a means of raising imperial revenue. It was unsuited in the main to the conditions of India. It was, in the form presented to us, a purely English source of taxation, and it certainly

suited a country where there was no land-tax, as in India; a country which was increasingly becoming an *entrepot* of commerce and manufacture, where the bulk of the population was ceasing to be agricultural, and where capital was mostly employed in other industries. For in England—

"in the course of one generation, the proportion of the population employed in agriculture had diminished from one-third to one-tenth. In 1831, it was twenty-eight per cent; in 1861, ten per cent—"

and the census of 1871 would probably disclose a still more surprising condition of industry and capital. In England, then, this tax was generally equitable and clearly in its place. And he would willingly see it continued in those towns of this country where anything like similar conditions prevailed.

But we had no instance of the successful application of an income-tax of this kind to a poor agricultural country like India, where every condition of taxation and of society, property and capital, was absolutely reversed. He was perfectly satisfied that this form of taxation was eminently unsuited to, and absolutely unfair in this land of small peasant farmers and moderate proprietors; where agriculture was almost the only important industry and employed eighty per cent. of an indigent population; and where, probably, nearly one-half of the average profits of *all* agricultural toil, industry and capital was already swept away by crushing taxation, to pay Military charges and the interest on old War Loans, and for the costly administration of the most expensive nation in the world. An income-tax was, he thought, utterly out of place, and inequitable, amongst an agricultural population already placed relatively at great disadvantage as respects taxation. And the inequitableness of this additional tax on their profits was, at this moment, enhanced by the fact that it operated in further diminution of agricultural profits, at a time when these were already in course of serious additional narrowing under the revised settlements which were being carried out throughout the length and breadth of the land, and were likely to diminish seriously the value of all landed property as an investment and a means of livelihood.

The Government of India had before them papers from Madras which shewed how utterly impossible it was to assess equitably landed incomes in this country—and in almost every income-tax assessment the land question was involved—without disturbing, far and wide, existing conditions, exciting deep agrarian discontent, and causing much confusion, oppression and corruption. The "rack-rent" of landed property could not be ascertained without inquisitorial measures, and a departure from the existing system of land administration,

which would cause serious dissatisfaction. In short, he considered that the levy of an income-tax on *agricultural* interests, as they now presented themselves in India, was impolitic and inequitable, and now, he believed, happily needless.

With respect to the monied interests of this country, a plea for levying an income-tax, were it necessary, was certainly more valid. He would willingly see the income-tax continued in the presidency towns and in some large cities in the Gangetic valley, and at the *entrepôts* of the cotton trade in Bombay. But as respects the vast number of Native saocárs and money-lenders who came under its operation in agricultural parts of the country, he thought that the money which was in their hands was practically agricultural capital in another form. The Native bankers it was, who, in a great measure, enabled agriculture to go on at all, and to be extended. They supplied the needy cultivators with the capital which they required and provided them with what their landlords failed to give them. They brought the crops into advantageous markets; and, lastly, they furnished in a great measure the means for the punctual realisation by Government of the periodical instalments of the land-revenue. Much, and very often most thoughtlessly, as this class of men was abused, none more deserved consideration and liberality at the hands of the State. And they might well be excused special taxation, save for provincial purposes, more especially as it was now unnecessary.

As before said, there were classes of capitalists, manufacturers, merchants, bankers and dealers in the presidency towns and in a few up-country cities, as well as some well-paid officials and salaried servants, whom he would like to see reached by an income-tax, even at a heavier rate than that proposed. But he was aware that the line could not be drawn; and rather than involve the far vaster, and now heavily taxed, agricultural interests in this vexatious and needless supplemental measure of taxation, or tax agricultural capital, he would concede immunity to these very limited classes, and leave them also to the mercies of the provincial tax gatherer, whose exertions would, in South India at least, relieve the State Fisc of all further burdens for Police, Jails, Education, and other important branches of costly administration.

He need scarcely add that the *modus operandi* of this measure of taxation furnished another most serious objection to its needless continuance. In England, there was some morality amongst income-tax assessors and assessees, feeble as this instinct was, even there, amongst the latter. In this country, he was sorry to say that, almost universally, only the worst instincts were roused and exercised on both sides under the operation of this measure. Any

one practically acquainted with the working of the income-tax knew that the whole thing, from one end of the country to the other, was an unseemly and demoralising wrangle between the lower orders of Government officials and the people of *all* classes—for, from interested motives, the challenge was carried far below the classes intended to be taxed, and exemption-fees were levied by threats far and wide—a wrangle in which the superior orders of Government officials rarely found that they could act as umpires equitably or to their own satisfaction. Bewildering inability to reach the truth, unfair challenge and surcharge, and too often oppression, partiality and corruption, on the one side, were met by disingenuousness and cringing, and too often by lying and bribery, on the other. He was perfectly satisfied it was not worth the while of an honorable Government, which was deeply interested in the moral well-being of this people, and in the integrity of their public services, to endeavour to recoup a more or less illusory adverse balance of £500,000, in a generous revenue of fifty millions, at that price, in the demoralisation of their subordinate public servants and ill-will amongst the people, which was now most unquestionably being paid, in levying the income-tax as was now done and must continue under the policy of this Bill. The Hon'ble Sir Richard Temple promised a revival of virtue from his moderation, and from slightly narrowing the apparent field for oppression and corruption, by the higher standard of incomes which he proposed to tax. Mr. Robinson could only assure him that such virtuous dreams could not be realised in this country, when his fiscal measures gave such scope for ill-doing, alike amongst assessors and assessees.

On this score, if on no other, Mr. Robinson would most earnestly deprecate a needless continuance of this tax. Its main practical evils lay, not in the rate charged, but in the absence, on all sides, of qualities for which we must search in vain for the present in this country. To keep up the tax at a smaller rate was merely to maintain all its evils for the sake of a greatly diminished return. To continue the impost that the hands of the establishments might not lose their cunning, was to prolong all this wrong and evil under a bitter and hopeless menace as respects the future.

But it was chiefly on account of the great development which provincial taxation had attained of late years, and of the increased local burdens which had recently been enjoined on the Local Governments by the late measures of the Government of India, that Mr. Robinson would ask the Government of India to give brilliancy to the wise administrative policy now inaugurated, and to lighten the fiscal sorrows of the people by a *generous* renunciation of this futile and vexatious impost.

He must not be misunderstood as disapproving, either of liberal provincial taxation, or of the administrative changes, which, he trusted, were merely the beginnings of more complete adjustments under stringent central control. The reverse was the fact. But he thought that this feature of change to which he alluded scarcely atracted the attention which it deserved as a whole. The number of Bills about to be brought before this Council for increasing the taxation of populations in respect of whom they legislated, should, however, suffice to awaken some interest, if not apprehension, in our minds as to what was before the country, and, he hoped, excite our sympathies.

Mr. Robinson need scarcely say that the Resolution of December last was not a *financial adjustment* as between the State and the taxpayers under the various administrations of the country; for we could scarcely view, as such, a Resolution by which certain services were transferred to local management, with grants which were—for instance, in the Presidency of Madras, £55,000 less than these services were costing during the current year—a cost in itself inadequate for the purposes. It was *no* financial adjustment which assigned about a hundred thousand pounds for the future education of 28 millions, who contributed a steadily increasing revenue of eight millions sterling to the imperial Fisc. The Resolution did confer very anxious liberties on local administrations, but it encouraged additional taxation for the people, which, unless it were jealously controlled, they would find it hard enough to bear with equanimity.

Mr. Robinson hoped that other members would lay before this Council the conditions of the provinces with which they were respectively acquainted, as regards their provincial taxation, more especially of agricultural parts. He ventured, even at the hazard of occupying more of the Council's time, to state in some detail that of the Madras Presidency. He must again add that he did so in no spirit of cavil or wish to exaggerate.

The existing provincial taxation of Madras might, for practical purposes, be described as in the main comprised under three local Acts and their recent modifications—omitting for the present the presidency town, where between £66,000 and £70,000 were raised for municipal purposes.

The new Bills had not reached Calcutta in their final shape, and he spoke therefore under correction.

These enactments were—

I.—The Village Service Cess Act of 1864;

II.—The Rural Municipal Townships Act of 1865; and

III.—The Road Cess Act, 1866.

There might be other minor taxing enactments; but he refrained from troubling the Council by describing them and their effects.

The village service cess consisted of a rate of one anna per rupee of the land-revenue demand, or an additional taxation of six and a quarter per cent. on all the ryotwári cultivation of the country. The measure was about to be extended to zamíndárí tracts, and would then involve a demand of, more or less, £400,000 a year for the entire Presidency. There were, however, some sets-off by resumed tax-free land, &c., which he ventured to hope might operate to reduce the entire prospective burden to £300,000 a year or thereabout. In theory, this tax was imposed in lieu of the grain-fees, &c., which were, in parts, leviable in early times by the village servants, for services rendered to the State and the community. But as these small and nearly obsolete grain contributions, if they ever were fully realised, fell very far short of the demand as above stated, the tax was, for all practical purposes, in a great measure, a new burden on the agricultural community throughout the Presidency. The services performed by the village establishments, who were now to be paid by the rate-payers, were in the main State services, connected with the realisation of the revenue and administration of justice.

The new Act was being gradually extended to each district, as the revised revenue settlements were introduced and local arrangements for the charge were completed. The tax had already been introduced into several districts at a cost, last year, of £40,000 to £50,000 (if his recollection served him right). During the year to which the budget before the Council referred, it would be extended to several others, with an enhancement of taxation which might possibly reach £70,000 to £80,000. As all districts became involved in the measure, the full charge would fall little short of £300,000, and shortly this sum would be reached. The Income Tax Bill would subject much of this landed property to additional rates.

The next measure in point of time was the Rural Townships' Improvements Act of 1865. It had been extended to forty-four provincial townships, and he found that the nett collection (less Government contribution) in 1868-69 was upwards of £80,000. During the past and current years, this sum had doubtless been considerably exceeded, and possibly the whole taxation was now nearer £90,000 to £100,000.

The Council were aware that, during the last few weeks, this enactment had been revised, with a view, he understood, to increased taxation during the year on which we were about to enter. Under these provisions, and with more stringent management, he believed £120,000 to £130,000 would rapidly

be reached, and would introduce a large margin of increased taxation, although the Madras Government had relieved the Municipalities of their contribution to the cost of the Police of their respective towns. Other small rural townships would shortly be involved in these measures of municipal management and taxation; and would eventually swell the provincial towns rates to something like £150,000 to £160,000, with an upward tendency. It need scarcely be observed that the Income Tax Bill subjected towns' house property and other industries to a further demand.

The last measure of provincial taxation with which he would trouble the Council was the Road Cess Act of 1866. This enactment had been in operation throughout the Presidency five years; and the income raised under it, by a rate on all land of six pie per each rupee of land-revenue demand, now amounted annually to upwards of £200,000.

The Council were aware that, within the last few weeks, important alterations and enhancements of rural burdens had been introduced on the basis of this enactment, under the name of the Local Funds Bill. These included an increased rate of one anna (instead of six pie) per rupee of the land-revenue demand; and a universal system of tolls; taxes on trades and callings, and a house-tax had also been established. The amount which would be raised by the double tax on land, during the year before us, would be fully £400,000.

The introduction of an universal system of tolls, doubtful as its expediency would appear to some, had been found indispensable to meet the maintenance or working expenses of rate-made roads. But it was not easy to estimate accurately what might be the further burthen thus laid on the rural population who used their rate-made roads, and on trade in general. He observed, however, that the tolls levied at the entrance of forty-four up-country municipal towns amounted to upwards of £30,000, and that, in one district alone, bridge tolls, &c., realised about £4,000. He thought, therefore, that a moderate estimate for the year before us would be £40,000 to £50,000, from tolls on rural roads and ferries, with a steady upward tendency.

The tax on trades and callings would certainly eventually yield from £35,000 to £40,000.

The tax on houses, which was, he understood, to be extended as education was provided, would prove, he thought, very productive. Twenty-eight millions of inhabitants resided in 5,800,000 houses, and the schedule appended to the Act provided, he believed, a house-tax varying from five rupees to four

annas a house. It therefore provided a minimum rate which might safely be applied to the hut of the ordinary cultivator, and probably exemptions from taxation would be few. But, anxious to avoid all appearance of exaggerating the burdens imposed by the recent legislation, he would assume that only 4½ millions of the 5,800,000 houses would be taxed, at an average of eight annas each all round. The proceeds of the rate would amount to £225,000. He believed that, what the people would gradually be brought to bear under this source of taxation, would prove more than double this amount. The income-tax would of course reach a certain amount of the landed and residential property and professional industries already rated to these provincial purposes.

Thus, we had the fact that, at a moderate estimate, provincial taxation to the amount of about a million and a quarter sterling, more or less, had recently been legalized against the rural populations of one Presidency, and that possibly little less than £300,000 would be added to that provincial taxation during the year which was before us; sanctioned, as he believed, by the local legislatures mainly in the confidence that the income-tax would, *if it could possibly be dispensed with*, be abolished. He believed that this possibility was now before us and should be availed of.

		£
Village Service Cess		300,000
Rural Township Improvement ..		150,000
Local Funds.	£	
Lands-rate ...	400,000	
Tolls ...	50,000	
Trades and Callings ..	35,000	
House Tax ...	225,000	
		710,000
Total		£ 1,160,000
Add Madras Town Rates		60,000
		£ 1,220,000

Add to these causes of popular anxiety, that, under the Forest Rules, seignorage was paid for wood hitherto had gratis; that communal and grasing privileges were being narrowed; that fisheries, hitherto open to all, were being subjected to useful, but still irksome, leases; that other cesses for the maintenance of minor irrigation works, &c., were under serious contemplation; that the Salt Tax was largely added to last year; that new revenue surveys and settlements were steadily creeping over the land, and were now likely to add very seriously to the temporary and permanent burdens of an already heavily-taxed rural population; and he thought he had shown cause to hesitate anxiously about bootlessly keeping up the vexation and irritation which were caused, throughout the length and breadth of the land, by this comparatively unproductive, unsuitable and unsuccessful source of imperial revenue.

Mr. Robinson believed that when, with reference to the effect of multiplied taxation, the experienced Advocate General of Madras recently used before the local legislature, without provoking contradiction, the words—"There exists

at this moment a sullen feeling of discontent amongst Natives from one end of the Empire to the other. Its signs and evidences are so clear that he who runs may read—" and gave utterance to other sentiments couched in still stronger language, and well worthy of the consideration of those who were responsible for the contentment of this country, he stated but the naked truth in respect to the rural populations of South India, and endorsed, from the result of his own experience and ripe observation, an opinion which was shared in by the majority of the district officers throughout the country, and, MR. ROBINSON ventured to add, by himself.

The rural populations were in a state of bewilderment, doubt and uncertainty. And he would venture most earnestly to urge the Government of India to take off their hand when, he believed, they might well and safely do so; and to minister to those people that comfort and assurance which the generous remission of this inquisitorial and vexatious impost would afford, at a time when these drastic measures of provincial taxation were being enforced by local administrations, in part under the special urgency of financial and administrative measures which emanated from the Government of India.

This was, he felt assured, expected at their hand by the people. For, although it might not be easy to point out any very recent pledge, in words, to abolish this tax, no ingenuous man would, he thought, deny that a non-eradicable belief and assurance pervaded all classes in this country, that the Government of India stood pledged to treat the income-tax as an impost to be resorted to only under great State necessity, and to be faithfully removed the moment that unavoidable need passed away. He himself thought that this sanguine popular trust was justified by the action of the Government of India from first to last. He believed, too, that the time had come for meeting frankly this expectation, and that the action of local legislatures and administrations was adding earnest cogency to the claim for a generous policy at the hands of the Government of India.

This graceful concession would be joyfully and gratefully welcomed by our Native fellow-subjects throughout the length and breadth of the land. But he thought that popular discouragement and disappointment would be deep and great indeed, if, instead of meeting this honestly entertained expectation when it might be done, they learned that this tax—which was so much and reasonably disliked by them—was sought to be made permanent, and was likely to be held in reserve to be inflicted with severer stringency whenever want of economy or other cause, furnished the plea of a small ostensible deficit for its

enforcement, in addition to the steadily increasing provincial taxation to which they were subjected with the concurrence of the Government of India.

He was aware that, under what he considered a very peculiar bias, or from want of means of observation, it was alleged in some quarters that the hostility which was declared against this impost was unreal, or had been provoked by the interested clamour of the European community; while the people did not resent the tax, or at worst were apathetic about it. He sincerely believed that this opinion was incorrect, and, where entertained, was unjust to the intelligent European community. These had always supported the Government cordially when its need was real and obvious; and would do so still. But they had recently resented financial and political blundering, with a justice of which the financial statement before us was the most conclusive proof. But the vast body of observant and thoughtful men throughout the country had testified earnestly, that this impost had produced a state of feeling amongst the Native community such as had been evoked by no other measure of which we had had any experience.

The inference which the Hon'ble Sir Richard Temple had sought to draw from the alleged absence of official complaints was, he thought, unbecoming.

In fine, he would ask the Government of India to abandon this project of law, because he believed the ostensible deficit was more or less unreal; because, with persistent economy, all State services might be met from the other prosperous sources of revenue; because the income-tax was unsuited to most of the conditions of property in this country, and was inequitable as a general tax; because its enforcement was demoralising and oppressive; because it was utterly unpopular and offensive; and because the progress of provincial taxation was assuming very serious dimensions, and practically removed any plea or necessity for applying this measure.

The Hon'ble Mr. Cowie said that, in listening to the Hon'ble Member's Financial Statement last week, it was matter of deep regret to him to find that, in the twelve months which had elapsed since we last discussed this vexed question of an income-tax, Sir Richard Temple had been quite unable to find any substitute for it. To avoid a deficit, or to ensure a surplus, the Finance Minister could apparently suggest nothing but the retention of a certain percentage—he might say a very vulgar fraction—of a tax which millions had pronounced, with curses not loud but deep, oppressiveand odious, to which he added vague guesses at the result of an opium crop. On these two items, apparently, hung his financial measures for the year.

Now, MR. COWIE's earnest wish would have been to see the income-tax swept away altogether, but at this late point of the financial year, he could hardly hope for that concession. He maintained, however, that if it was still imposed, the Government were bound to remove the export-duty on rice, a duty which nothing but financial difficulties ever sanctioned. MR. COWIE imagined the Hon'ble Member would have an orthodox horror of coming before the public with an estimated small deficit not provided for, but what would that be, contrasted with a budget which actual results shewed to have been £744,000 under-estimated.

Believing it was hopeless to expect to see the income-tax finally buried this year, he confined himself to desiring the withdrawal of two of its most objectionable features.

He had given formal notice, last Monday, of two amendments; one to restrict the minimum for taxation to Rs. 83-5-4 per mensem, or Rs. 1,000 per annum, and the other to limit the operation of the Act to the 31st March 1872; and considering these to be questions more of principle than of detail, he wished them placed before the Council prior to the Bill being sent to a Select Committee. The learned Secretary to the Council informed him that this would be opposed to our Rules for the Conduct of Business; but MR. COWIE might remind the Council that, by the 40th and last rule, the President had the power of suspending any of the rules, and if that power were now exercised, we might have the opportunity of discussing and voting upon these two questions today.

With regard to his first suggested amendment, he would record his belief that instances of vexatious oppression endured by the poorer class of taxpayers were very much more numerous than the Hon'ble Member, in his exposition of Thursday last, seemed disposed to admit; and the raising of the limit of taxation appeared to MR. COWIE the short and simple method of lessening that oppression, leaving the tax to be borne by those who were best able to wage war with its iniquities.

His second amendment was induced by a conviction that a Bill unlimited in point of time was a tacit notice to the public that Government proposed to make the tax permanent, and in the case of an income-tax, he earnestly protested against that view in the name of the common sense of the people of India. It was essentially a tax for an emergency, and not for time of peace. One other feature of the Hon'ble Member's statement MR. COWIE would desire to notice, and with anything but approba-

tion. He referred to the enormous cash balances, which had now reached the unprecedented sum of sixteen millions. Two years ago, in this Council Chamber, MR. COWIE suggested that the use of railways and telegraphs ought materially to economize the use of the State cash-balances, a safe average for which was usually reckoned at ten millions. They had ever since gone on increasing. Surely, to hold sixteen millions utterly unproductive, when you were paying interest to fundholders on eighty or ninety millions, was very questionable financing. Was it no presumptive evidence that you had borrowed too largely, taxed too heavily, or spent too little, and would not both fundholder and taxpayer laugh to scorn the last assumption of the three? MR. COWIE would now respectfully ask His Excellency to make such suspension of the rules as might admit of his two amendments, notice of which was duly lodged with the Secretary four days ago, being open to discussion and division today, so that the Bill before them might go to the Select Committee shorn of two of its most objectionable features.

The Hon'ble MR. INGLIS would vote against the introduction of this Bill. He did so because his experience of the working of the income-tax during the year it had been in force in India convinced him that it was a tax altogether unsuited to the people of this country, and because he knew that its imposition was attended with very many serious evil consequences which ought not to be disregarded by any Government.

There was probably no member of this Council who had had better opportunities than he had had for forming an opinion on this tax. He had had to assess it as Collector, to hear appeals against it as Commissioner, and latterly to look after the assessment of the whole of the North-Western Provinces as a Member of the Board of Revenue, and he had no hesitation in saying, in the words used by the Local Taxation Committee assembled last year in the North-West, when speaking of the income-tax "that it was a tax odious to the people and odious to the officers who had to assess and collect it." He believed that this opinion was held by every officer who had had to take an active part in assessing the tax. The causes of this were not far to seek. The people detested the tax in consequence of the inquisition, oppression and extortion, which everywhere accompanied its enforcement; the officers of Government hated it because they saw all these evil practices going on around them, while they were powerless to put a stop to them.

The area of the districts was so large and the population so great, that it was impossible for any Collector to make the assessments himself. He was consequently compelled to employ a lot of underpaid Natives to prepare the lists

of persons liable to assessment, and had to rely on information which he well knew to be untrustworthy, when estimating the amount to be charged on each person.

It frequently happened that a Collector had not been in charge of a district more than a few weeks, or even days, when he was called upon to assess it to the income-tax. He was consequently in total ignorance of the circumstances of the people he had to assess, and did not know where to turn to for information on which he could rely, to enable him to form an opinion on the returns sent in. He felt that he was working in the dark; that with the best intentions, and with the most earnest desire to do right, he was probably every day committing the most frightful injustice.

It was this groping about in the dark, this uncertainty, this impossibility of obtaining any reliable data on which to base the assessments, that made the tax so hateful to the officer who had to assess it, and to the people who had to pay it. It was just the same with the income-tax of 1860. The returns of that tax, published afterwards, shewed that no less than 93 per cent. of the assessments were surcharges, and a surcharge to the income-tax meant nothing more nor less than a guess made by an assessor on information which was worth nothing. The guess might be high, or it might be too low, but no one could tell which, but most assuredly it had no relation whatever to the real income of the person surcharged.

The Hon'ble Sir R. Temple, in his speech on the budget, said it was noteworthy that, on a circular being addressed to the several Local Governments in India, enquiring whether there were any known cases of oppression or over exaction, replies had been received from all of them (except the Government of Bengal) to the effect that no such cases were known; that the Government of Bengal did indeed transmit a resume of some thirteen cases. The Hon'ble Gentleman remarked on this that the number was of course a matter for much regret, though relatively it was not large. Now, MR. INGLIS submitted that this statement hardly gave a correct impression of the purport of the replies sent in by the various Governments.

He believed that the Government of Bengal replied that numerous cases of oppression had come to light; and that thirteen cases were forwarded as samples for the information of the Government of India. The other Governments, he believed, replied that there was no doubt that extortion prevailed to a lamentable extent, but that no cases had been specially brought to notice, and it was not probable that they would be; for a man who had paid to get

his name left out of the lists, or who had paid to get off a threatened surcharge, was not likely to come forward afterwards and state publicly what he had done.

Though the people suffered in silence, it was none the less true that bribery and extortion prevailed, nor was the disaffection and disloyalty engendered the less general, or the less worthy of the very serious consideration of the Government.

The Hon'ble Sir R. Temple had said, on several occasions, that it was absurd to call a tax unpopular which fell on only one in three hundred of the population. Now, Mr. Inglis confessed he could not understand how any one who had given the slightest attention to the objections urged against an income-tax, could make use of such an argument as this. It might be true that only one in three hundred of the people paid income-tax to Government; but it was equally true that, of the two hundred and ninety-nine remaining, at least one-half were subjected to the most vexatious and oppressive inquisition and extortion when the preliminary lists were drawn up, and that a very large number of these men had to pay to keep their names out of the lists. All this went on though the officers of Government did their best to prevent it. This bribery and extortion seemed inherent in the very nature of an income-tax in this country, where the population affected was so large, and the officers of Government so few. He did not believe that a man could be found who, having assessed a district to the income-tax, would say that he believed the tax to have been levied fairly, and without a lamentable amount of bribery and corruption. No blame could be imputed to the officers charged with the assessment and collection of the tax for this. They everywhere did their utmost to prevent these evil practices, and they protested against the tax, because they knew from experience that these evil consequences everywhere attended its enforcement, notwithstanding their most strenuous and unceasing endeavours to put a stop to them.

It was, he believed, no exaggeration to say that, for every man who paid income-tax to Government, twenty paid to get off; and that for every rupee paid into the treasury, another was paid to the subordinate Native officials; that is, the Natives of India paid last year upwards of two millions as income-tax, and upwards of two millions more as bribes.

Everywhere, throughout the country, the tax was demoralizing to the people; everywhere false returns were sent in; everywhere the trading classes were beginning to keep two sets of books, one set shewing accurately their real trans-

actions, the other set containing a carefully prepared garbled account to be shewn to the income-tax assessors.

How unsuited the tax was to the people of this country, and how heartily it was detested by them, might be gathered from the fact, that no Native Government had ventured to levy it, and these Governments were by no means backward in devising new sources of taxation. It was the British Government alone which had the power to force this tax on its unwilling subjects, and the British Government even could levy it only in times of profound peace.

A tax, then, which was everywhere and always accompanied by the corruption and extortion which attended the income-tax in India; a tax which demoralized the people to the extent this did; a tax which created such wide-spread and deep disaffection and dislike to our Government as this had; a tax which no Native Government had ever ventured to impose, and which the British Government itself could levy only in time of peace, was a tax which ought not to be imposed, even if it produced millions; but to put it on in order to obtain a paltry fifty lákhs in a budget of over fifty million pounds sterling, was, he maintained, most unwise and impolitic, especially when, as in the present case, there seemed to be good reason to doubt whether there was any deficit at all.

He thought there was every reason to believe that a careful examination into the estimates of receipt and charge, under the heads referred to by the Hon'ble Mr. Robinson, would result in the total disappearance of the deficit shown in the budget as prepared by the Financial Department.

But even if this result did not follow a careful scrutiny into these items; if after all a small deficit still remained, then he would urge on the Government to meet it, either by a transfer from the cash-balance account, which was estimated to stand, at the end of 1871-72, at the enormous sum of seventeen millions; or by a rateable reduction on the assignments made to the several Local Governments under the Resolution of the 14th December last, rather than by the imposition of this demoralizing, unpopular and dangerous tax.

The Hon'ble Mr. Cockerell concurred in much that had fallen from the Hon'ble Members who had preceded him in this debate. Last year, and on former occasions, he had very reluctantly acquiesced in the imposition of an income-tax as a temporary expedient; but to his mind the proposal to annex the income-tax to our permanent sources of revenue—and such he understood to be the object of the Bill now before them—was a matter

of much graver import than the re-enactment of an Income Tax Act providing for a higher rate of assessment for a fixed period; and he felt constrained, therefore, to express his conviction that the present measure was ill-advised.

It would seem to be assumed that, in the presence of the relief afforded by the considerable reduction of the rate of assessment, the moderation of the present demand would be acknowledged, and its permanent tendency, if not cheerfully submitted to, would at all events be accepted with a certain degree of satisfaction.

Such might be the feeling with which the measure was likely to be regarded in the Presidency towns and other large centres of civilization, in which, so long as its operation was confined thereto, the tax might be worked with a minimum of oppression and other objectionable consequences, and to which, therefore, its application was not altogether inappropriate.

But MR. COCKERELL ventured to say that, by the people at large, the attempt to give the income-tax a permanent place in our fiscal system, and at a time, moreover, when the finances of the empire were shown to be in an unusually prosperous condition, would be regarded with profound disapprobation and distrust.

The measure would undoubtedly be looked upon as, in a measure, a breach of good faith; for, although no distinct assurance of the merely temporary duration of the income-tax as a source of revenue had been given, yet the distinctly finite character of all previous legislation on the subject had certainly favoured the general impression, that it was the fixed policy of the Government to resort to the tax only in cases of special emergency.

MR. COCKERELL did not think it necessary to dwell upon the extreme unsuitableness of such a tax to the people of this country. This had been most forcibly described by his Hon'ble Colleagues who last spoke, and from his own administrative experience of the working of the Income Tax Act of 1860—an Act which contained better safeguards against oppression and abuse than were to be found in the present Bill—he could distinctly endorse all that they had said as to its baneful effects and demoralizing influences, as well as the extreme distaste with which it was viewed alike by the assessors and assessed.

Nor was this to be wondered at, for it was simply impossible for us to employ a suitable agency for the assessment and collection of the tax, an agency which should be at the same time so inexpensive as not to exhaust the product

of the impost, and yet not amenable to corrupt influences. The truth was that, where the assessor was of a class superior to such influences, he was, from the necessity of the case, a man who must depend for the acquisition of local knowledge as to the circumstances of the persons to be assessed upon the interested information of corrupt subordinates.

It was for these reasons that the public—under which term he referred to the general population of the empire—would be sure to regard the permanent retention of the income-tax, at even a low rate of assessment, as a serious grievance.

Much stress had been laid on the light incidence of the assessment generally, and the relief afforded by raising the minimum of exempted incomes. Now, he ventured to say that, if we were to have an income-tax, its merit and defence should be that it brought a considerable increment to the financial ways and means. And, to his mind, it was a great blot in the present measure that it kept alive a source of general irritation and dissatisfaction to attain such incommensurate results as the addition of little over half a million to an annual revenue of upwards of fifty millions, and as regards the relief of the poorer classes, if the figures given by the Hon'ble Member were correct, the lightening of the burden of the general tax-paying community was altogether insignificant.

What was the justification offered by the Mover of the Bill? All that he said in effect was that, without this tax, he could not make the two ends meet; he could not, in short, establish a financial equilibrium. On the last occasion of bringing forward a measure of this kind, the hon'ble gentleman resented, as something altogether unreasonable, the imputation of poverty of resource in devising ways and means. But could the Hon'ble Member come before this Council, year after year, with no fresh device, nothing but this much-abused income-tax, to sustain his financial administration, and successfully rebut such a presumption?

Mr. Cockerell could not regard the period which had elapsed since the Hon'ble Member's exposition of the financial affairs as sufficient for a thorough examination and critical apprehension of the various subjects with which it dealt, and he was not prepared to go into any details of the Budget, further than to express an opinion that the estimated receipts from Opium and Customs were needlessly reduced. They provided for an average decline in prices of forty-five rupees per chest, and a small diminution of the annual revenue from import-duties, which neither the reported prospects of the opium trader, nor

the general condition of foreign affairs, and its probable improving effect on the commerce of India, in any way warranted. The estimate on Opium alone gave a reduced income from this source, to the amount of about £300,000, or one-half the expected receipts from the income-tax, which need not be anticipated.

There was another point in the Budget to which he would draw attention, and that was the unsatisfactory, and, he might say, mysterious operations in the Loan Department. It would appear that there was always a very considerable unexpended balance in hand, created by excessive borrowing beyond the requirements of the time. When it was considered that every million borrowed represented an additional annual charge of £45,000 to be met by the tax-payer, it was unreasonable that there should not be some check on the borrowing power, and some better adaptation of the fresh supply to the demand for actual expenditure. It was unsatisfactory to find so large a balance of unappropriated loan at the expiration of the last year of account, and to receive only the somewhat meagre explanation, that the Secretary of State, though he was expected only to borrow two millions, in fact borrowed three and a half millions. MR. COCKERELL had no doubt that his colleagues, whose special avocations rendered them more competent to deal with such matters, would have something to say on the subject. Still he had thought it right to refer to the question, in the hope of eliciting some more satisfactory explanation than was afforded by the Budget exposition.

The Hon'ble MR. CHAPMAN differed from his hon'ble friend who spoke last, and considered that, this year, we had had ample time for attentively considering the Budget-statement. He would endeavour, as shortly as he could, to state the impressions it had produced on his mind.

Considering the obloquy his hon'ble friend, Sir R. Temple, had incurred, MR. CHAPMAN did not wish to say anything harsh regarding his past policy. But since he had challenged criticism, MR. CHAPMAN must, as an impartial judge, say that he had wholly failed to justify the course the Government, acting, he presumed, mainly under his advice, adopted last year.

The case turned entirely on the Opium estimates. And it might not be uninstructive briefly to revert to the facts. MR. CHAPMAN found that, in 1868-69, eight and a half millions of Opium revenue were realized; in 1869-70, eight millions; and in 1870-71, eight millions either have been, or will be, collected. In point of fact, there had been hardly any fluctuation. Well, how did his hon'ble friend act? He had estimated that he would receive eight and a quarter millions in 1869-70, whereas, as he (MR. CHAPMAN) said, he actually got

only eight millions. He thereupon took alarm; and for the year 1870-71 estimated his receipts at only seven millions. Having done so, he next proceeded to impose an oppressively high income-tax to make up the anticipated deficit of one million. MR. CHAPMAN was well aware that he placed much stress on the fact, that he was supported in this opinion as to the probable decline in the price of opium by eminent members of the mercantile community interested in the trade. The estimate was, he had no doubt, prepared after the most careful consideration and on the best advice. But he contended that, in dealing with such a gambler's stake as this source of revenue admittedly was, the only guide you could take was that derived from actual past results; and he repeated what he said at the time, that the Government had no right to assume, beforehand, that the yield would be less than the average, and proceed on that assumption to impose exceptionally high burthens on the country. In this particular instance, events had proved how unfounded this assumption was. It was perhaps only natural that his hon'ble friend should have done his best to justify the course the Government adopted; but he believed he must, in common with other members of His Excellency's Government, be conscious that a very grave error had been committed, the political effects of which it would, he feared, take years to efface. He was glad to see that the error was not to be repeated, and that the Opium estimates for the coming year had been prudently and fairly framed.

Having found fault with the past, he was happy to be able to express his unqualified satisfaction at the course the Government had found themselves able to adopt in respect to the income-tax. By reducing it by two-thirds and raising the minimum to rupees seven hundred and fifty, he considered they had afforded all the relief that could reasonably have been expected. He was no admirer of the tax; and were it a question of imposing it for the first time, he should hesitate to give his assent. But Hon'ble Members, like his friends Messrs. Robinson, Inglis and Cockerell, who advocated its entire abolition, must remember that it would be most difficult, if not impossible, to re-impose it in time of need, and he would ask them to consider what other means they would have recourse to. It was easy enough to say that this was no affair of theirs; but he maintained that, when members took upon themselves to urge the Government to abandon an established source of revenue, it behoved them to show how, in case of necessity, it could be replaced. Besides, if the Government were in a position to afford further relief, he contended there were other interests that had a preferential claim to consideration. Amongst notably objectionable imposts, he might mention the duty on Sugar in Northern India, a tax which was nothing more nor less than a barbarous transit-duty.

Therefore, opposed as he was and had been to a high income-tax, he believed that it was sound policy to maintain it at the rate now proposed during ordinary times, and to be ready to increase it in times of real emergency. He also maintained that the Government had acted wisely in not limiting its operation to any particular period; to have done otherwise would have been to unnecessarily keep alive uncertainty and agitation.

To turn to the Statement itself. He considered it to be a clear and intelligible exposition of figures; but there were two specific parts regarding which he should like to have further explanation. The principle had, he understood, been laid down, that the revenues and charges of each year were to be dealt with separately, and that the surplus of one year was not to be treated as an asset of the succeeding. Such being the case, he wanted to know how the payment of a quarter of a million, which it was proposed to make in 1871-72 out of the revenues of 1870-71, could be reconciled with this principle? He did not himself object to these payments. The one of £20,000 to provincial services was, he thought, very right and judicious; but as surpluses were, happily, likely to be the rule, he should like to hear from the Hon'ble Member how he intended disposing of them. Secondly, he wanted to know why, with cash-balances estimated to amount to the enormous sum of eighteen millions, it was intended to borrow one and a half millions in England? The unfavourable rate of exchange could not, he presumed, be the sole cause.

He would now advert to the revolution that had been inaugurated in the relations between the Supreme Government and Subordinate Governments and Administrations. Having been intimately associated, for some years past, with the administration of one of the principal Local Governments, he desired to say that he considered the concession of principle involved in this change most valuable and significant. He said significant, because, although this was only a first step, he was satisfied further advance was inevitable. As matters stood at present, he could not say, speaking on behalf of Local Administrations, that they had much reason to feel grateful.

The Government of India had relieved themselves of a number of pressing and ever-increasing charges; and the Local Governments in turn had purchased a certain degree of freedom and emancipation. In this way the Supreme Government had not made a bad bargain.

He heartily wished His Excellency's Government had seen their way to continue the grants for provincial services, as they were now termed, intact. Had this been done, the Local Administrations would have had no excuse for

resorting to new taxation: as it was, they had been driven to impose new burthens.

He confessed that he viewed with the gravest anxiety this constant increase of taxation. The country loudly called for rest. It was not, perhaps, so much the weight of the existing burthen, as the uncertainty and want of finality that harassed the people. Simultaneously with the diminution of the income-tax, you would oblige Local Governments to impose new taxes, and he feared the great mass of the people would find the little finger of their own rulers thicker than the loins of the Viceroy in Council.

In the Presidency to which MR. CHAPMAN had the honour to belong, a succession of new taxes had been imposed during the past ten or twelve years. In addition to the income-tax, we had had a cess of six and a quarter per cent. on all revenue; a quit-rent of a considerable amount on lands previously held rent-free; tolls and municipal taxes had been freely resorted to; salt excise had been greatly increased; and last, but not least, in many parts, the thirty years' settlements were falling in, and revised rates, involving an increase of some sixty per cent. on the land-revenue, were being imposed. The Local Fund receipts during the year 1869-70 amounted to £618,000; while the Municipal taxes realized £530,000. Allowing for a portion of the Local Funds being derived from jail-manufactures, harbour-fees, Native States, charitable endowments, and other sources that did not press directly on the country, he believed it would be found that the presidency contributed not far short of a million sterling over and above the imperial revenue.

The non-agricultural classes were the only section of the community who might, in his opinion, fairly be taxed; and so strongly was he impressed with this belief, as far as his own Presidency was concerned, that he would even have preferred seeing the income-tax retained at one and a half per cent., rather than have obliged the Government to put on new taxes.

But he believed both of these alternatives might be avoided if a rigid policy of economy were enforced. His hon'ble friend, at the close of his statement, said that "retrenchments in both the Civil and Military branches of expenditure in India have been made." He wished he had particularized them. It would, he thought, be a salutary plan if, for the future, he would append a contrasted statement, shewing, in detail, the several alterations in fixed charges. For his own part, he reiterated his belief that there was much room for retrenchment in almost every branch of the administration.

The Council would remember that the late Commander-in-Chief, Sir W. Mansfield, on the eve of his departure, solemnly protested against the reduction of a single European soldier; and he was happy to find his advice had been attended to. But, at the same time, he expressed it as his opinion that we might dispense with ten thousand Native troops; and further, that the existing separate Army administrations in India might with great advantage be centralized: He would read to the Council the words of that eminent authority—

"In the course of my remarks, I have adverted to the new military strength accorded to us in these days, as compared with former times, in the power for immediate combination and concentration. This reflection leads us at once to another point, namely, that, in the combination of the Military Departments of the several Presidencies into one War Department under the Government of India, with a corresponding change in the system of Command-in-chief, may be found a measure giving at once improvement in economy and increase of strength. There should be but one War Department, which would at once involve the consequence of one Ordnance Department; in short, the concentration of the Army in the largest sense in the hand of the Government of India. This need by no means interfere with the local character of the Native Forces of the other Presidencies, a character which, I believe, a sound policy bids us carefully to maintain.

"It has always appeared to me that, in this country, many things are centralized which ought to be local and dependent on the Local Governments; whereas those establishments are kept separate, and, as it were, almost distinct from the immediate control of the Supreme Government, which, from the nature of things, especially belong to it. Such is the case with military administration. We do not see the Federal States of America maintain distinct military organisations for the payment of which Congress is responsible, although, in other matters, the provincial Governments of the States exercise a very large power.

"There is no reason for separate military administration in Madras or Bombay, which would not equally apply to the several Governments making up this Presidency. So long as the separate system lasts, I am hopeless of real economy or of breaking down the influences and jealousies which meet your Excellency at every turn when economical schemes issue from this Council. I need hardly remind this Council that I ventured to utter these opinions very many years ago, when they might have been supposed to be contrary to my personal interests. A long and practical experience of government and command, first in Bombay, and afterwards in association with the Governor General, have only tended to convince me that these opinions are right and should be carried into execution. Whenever reforms in such a direction take place, I may say, with regard to the office I am about to lay down, that some modification is necessary."

It would have been very satisfactory if we had been told that the recommendations of Sir W. Mansfield were being attended to. We were maintaining these costly separate administrations at, in his opinion, a positive sacrifice of efficiency, and as though no such inventions as railways and telegraphs had been introduced into the country.

In respect to Home Expenditure, his hon'ble friend went out of his way to tell us that accounts were rendered to India of all that was incurred. It seemed to him to amount very much to this, that India was allowed the privilege of paying whatever bill was sent in to her. He could not think this relation of affairs between the two countries satisfactory. In his opinion there ought to be only one authority responsible for the finances, and that no outlay ought to be incurred except such as met with the approval of His Excellency in Council.

Under the head of Marine, he saw a charge of some half a million. It would be interesting to know what the country received for this money? He had a very shrewd idea that, if a thorough enquiry were instituted, considerable reductions might be effected.

Then turning to Civil Charges, he noticed a sum of over one million and a quarter under Administration, being an increase of £74,000 over last year. Not to look far from home, he was conscious that the cost of his seat in this Council was quite out of proportion to any small service he might be able to render. Then, look to the constitution of the Executive Government. Why should each Department require both a Member of Council and a highly paid Secretary? It seemed to him that, under a departmental division of labour, this dual system was hardly necessary. Then, again, look to the great divergencies that prevailed in the systems of revenue administration in the several Presidencies. Why, if neither in Madras or Bombay, with their far more detailed ryotwár system, the services of both Commissioners and a Board of Revenue were not found necessary, why, he said, should both these costly agencies be maintained in Bengal and the North-West? If he turned to the Judicial Estimates, he found a High Court Judge in Bombay and Madras could be procured for Rs. 3,750 per mensem, while the same functionary cost Rs. 4,166 at Calcutta. On the face of it, there seemed no reason why there should be this difference of £500 a year.

He was well aware that these details were unpleasant and invidious. He might go on to instance many others; but he thought he had said sufficient to indicate that considerable reductions were practicable, if a thorough and impartial scrutiny were instituted.

There were, he knew, great—almost insuperable—difficulties in the way of effecting reforms of this character, involving as they did the sacrifice of many personal interests and the abandonment of many cherished prejudices. The Government of India must, nevertheless, grapple with the task. You possessed a superb revenue, which would doubtless increase by the natural process of expansion, but which you could not, he was convinced, safely enhance by means

of additional taxation to any considerable extent. Therefore he said that, if you wished to preserve an equilibrium, and at the same time meet the legitimate growing wants of the country, you must exercise the most rigid economy in your administration, and the most relentless retrenchment where practicable.

The Hon'ble Mr. Bullen Smith had to record his opinion against the Bill now before the Council. He did so unwillingly, and solely on account of the permanent character given to the measure it proposed; but without much stronger arguments than he found in the figures of the Financial Statement lately delivered, he could not give his vote for the permanent enactment of a form of taxation which, in the opinion of all those whose judgment he most respected, was utterly unsuited to this country. He was not altogether satisfied that necessity existed for the re-enactment of this Income Tax Act for any period, but he felt it his duty to give to those who were responsible for carrying on the Government of the country the benefit of any doubt which existed in his own mind; and had this tax been proposed for one year only, he would have been disposed to vote in its favour, as perhaps not altogether an unreasonable proposal, with reference to the very small prospective margin of surplus shown in the statement of ways and means for the coming year, and with reference to the fact that the income-tax was not altogether new, but had unfortunately, for a number of years, by force of necessity, held a continuous place in our fiscal system. While saying this, however, he desired to guard himself from being supposed in any way to recede from the position he felt it his duty to take up when the same tax, but in a much more aggravated form, was before the Council last year. He thought then, and he thought still, that in passing the Income Tax Act now about to expire, this Council committed a grievous injustice; as, with full knowledge of the comparatively small section of the people of this empire on whom such direct taxation even professed to fall, and the still more limited proportion from whom it was at all fairly and equitably collectable, we passed a measure which practically threw upon that small section of the community the whole burden of the deficit which was at that time apparently inevitable. In this connection, he must say that he listened with regret to the reference made, in the recent budget exposition, to some reports by the Local Governments as to the working of the Income Tax Act during the year now closing. He had not, of course, a doubt that what was stated in these reports was strictly true; and as mere formal documents they did not perhaps require much notice; but, imported into a budget exposition, if not as a wit of justification of the tax, he knew not for what purpose, they acquired an importance and significance to which he considered they were not entitled,

believing, as he did, they were utterly valueless as affording any real gauge of the working of the Income Tax Act among the poorer of the classes affected by it. He knew well what were the ideas of the Member who, last session, sat in this Council on behalf of Madras on this subject, and he appealed with confidence to the hon'ble gentleman opposite, who now represented that Presidency, whether the statement of his Government, that no complaints had been brought to their notice, conveyed to his mind anything like a just impression of what he believed to have been the real working of this Act among the people of Southern India. As he said before, the reports in question were doubtless technically correct; but in this country, above all others of which he knew anything, what was brought to the notice of Government was one side of the picture; what actually took place a very different reverse. He appealed in support of this statement to the cases of oppression or over-exaction reported by the Government of Bengal. Those who were acquainted with the details of these cases, the chief of which occurred not very far from where we were now sitting, knew that they came to the notice of Government, not through any regular official source, but through the Press, set in motion by one on whose interference in such matters Government had no claim whatever, but who becoming accidentally acquainted with what was going on, actively bestirred himself to obtain redress for those who, otherwise, would in all probability never have got it. He admitted that, once these cases were brought to the notice of the Local Government, redress was promptly given; but did not the mere fact of their occurrence in the close vicinity of this city warrant the belief that there must have occurred, in the remoter districts of this country, countless similar cases of oppression, of which the Local Government never heard, and the full measure of suffering involved in which would never be known? It might be asked why he referred to these things? Simply because he felt that we could not afford to weaken, by one single thread, the slender cord of sympathy which existed between us and those for whom we legislated. However we might differ in opinion as to the financial measures adopted last April, we must all unite in deploring the lamentable want of cordiality between governors and governed, by which the year now closing had been so strikingly marked; and it was because he feared the reference made to these reports would not tend in any degree to promote a better feeling, that he would fain have seen it omitted altogether from this exposition, or couched in terms of broader and more hearty sympathy.

The Bill now before the Council, as compared with the Act about to expire, gave substantial relief, both in the percentage levied, and in the range of incomes affected. In common with many others, he had hoped that, even if

Government found it necessary to retain this taxation in some form, they would have seen their way to the exemption of all incomes under Rs. 1,000 per annum; but as he understood this point was made the subject of special discussion in the Executive Council, he did not press it. He did, however, trust that, if this Bill were passed in Select Committee, the apparently permanent character which it now wore would be altered, and that, like its predecessor, it would be enacted for one year only. Of the unsuitability of an income-tax to this country, we had from time to time heard so much in this Council and elsewhere, that he would not add a word on the subject; but those who desired new testimony on this head would find it in the report of the late Committee on Taxation in the North-West, published in last Saturday's Gazette. He would deprecate in the strongest manner any attempt to place this income-tax among our permanent sources of revenue, for he could not forget—and of this he would remind the Hon'ble Member of the Government in charge of the finances—that so long as we continued this tax under the existing conditions of this country, so long did we violate that which is, by the highest authorities, acknowledged to be the aim and principle of all direct taxation, namely, to leave all classes affected by it in the same relative position as it found them. All experience proved that we could not thus levy an income-tax in India; and although the Hon'ble Member might plead that stern necessity had driven the Government to this violation in time past, MR. BULLEN SMITH submitted that, in asking for this tax as a permanent institution, he appeared content to perpetuate this course, and, in the administration of a finance of first magnitude, to turn his back upon the acknowledged principle to which he had alluded. There was another point of view from which, he thought, persistence in passing this Bill without limit as to time would be inexpedient, and, certainly, not in accord with that publicity which had hitherto been a notable and highly appreciated feature in the administration. By the constitution of this Council, it was not open to any member to take the initiative in any measure affecting the finances of the country without the express permission of the head of the Government. Of course he did not forget that, when a measure was proposed here to which the Government were pledged, it could not, under existing conditions of this Council, be successfully opposed, but the mere fact of leave being asked, however formal in its practical bearing on the result, gave an opportunity to the public of hearing anew what was to be said on both sides of the question, and of expressing their own opinions upon it. The Bill before the Council did away with all this; stereotyped the impost now under discussion, and in so doing, he thought, rather tended to defeat the ends for which this Council was supposed to have been established.

Turning now to the financial exposition, of which the Bill before the Council was the practical result, he must express his regret and disappointment at the retention of the export-duty on rice, and his still greater surprise at the few passing words with which a measure involving a glaring fiscal inconsistency was dismissed. He was not about to weary the Council by a repetition of the arguments by which he last year endeavoured to show that the abolition of this duty was in the highest degree expedient. He might remark, in passing, that although the rice trade from this port did show, for the year about to close, some improvement on that for 1869-70, it still fell far short of what it was in 1864-65, up to which period it had been increasing at the rate of nearly twenty per cent. yearly. He might also remark that the export to China, to revival in which the Hon'ble Member, in his financial exposition last year, looked forward with feelings of hope and comfort, had undergone no improvement worth mentioning, the export of the twelve months falling under 3,000 tons, or three moderate cargoes; while, during the same year, the total export of Saigon rice had risen from 157,000 tons in 1869, to 222,000 tons in 1870, or nearly forty per cent., of which increase that to China was more than three-fold, showing how utterly, even under the most favourable conditions of demand, we were being beaten out of that market. As to the undesirable nature of export-duties as a whole, we were all agreed; but what those interested in the rice trade of this country would have liked to hear was, not the bare fact that the duty was to be maintained, but some explanation of the principle on which, assuming that a certain amount of revenue must be raised from export-duties, rice was selected as one of the articles to contribute. In using the word 'selected,' he spoke advisedly; because, although the Hon'ble Member did last year, in replying to certain remarks of MR. BULLEN SMITH'S, say that he was only the continuor, not the originator, of this duty, MR. BULLEN SMITH scarcely thought this a line of defence to which on reflection he would be disposed to adhere; and in any case, for his own part, he could make no practical difference between the administrator who imposed a wrong tax, and the one who refused to repeal it, when its injurious effects had been fairly brought to his notice! Indeed, of the two, he should say the latter was the more culpable, inasmuch as he erred in the face of actual experience. Assuming, as he had said, that all export-duties were objectionable, but that the necessities of the State rendered some income from such a source imperative, the question then surely arose, which among our considerable articles of export most nearly approached the conditions under which, according to the universally received principles of political economy, an export-duty could best be borne? in other words, which of our considerable

articles of export had, as regards supplying the wants of other countries, a monopoly, or the nearest approach thereto? He thought none would deny that the institution of such an examination as he had sketched, into the position of our various export trades, would be the proper course to pursue under the circumstances; but he found nothing in this exposition showing that the principle he spoke of had even been considered. By way of illustration, he would take the three important articles of indigo, rice, and jute; and he specially selected jute, because, in the financial statement before him, the continued flourishing condition of this article was dwelt upon. He found that this article, of which he might say that British India had almost an entire monopoly, the value of which had nearly doubled of late years, and the export of which had marvellously increased, left the country free of all duty whatever. He found that indigo, of which British India furnished the main supply to the world, although Guatemala to a certain extent competed, paid an export-duty of rupees three per maund, or, say, 1¼ per cent. on the average selling price of the season just closed; while rice paid an export-duty of three annas per maund, equal, at present prices in this presidency, to nearly 9 per cent. on the common, and over 7 per cent. on the better, qualities. That is to say, the article of which we had virtually a monopoly, and the growing prosperity of which was matter of universal comment, paid no export-duty; the article which met with a certain competition paid 1¼ per cent.; while the article which was exposed to a keen competition in every market to which it went was at the present moment paying an export-duty of 9 per cent. It might be asked, did you wish Government to add to the export-duties? He would say, certainly not, and that he would much regret to see the Government of India enter upon such a retrograde course; but he placed these figures before the Council in order to show that it was not without reason the many who were directly and indirectly interested in this rice trade cried out for relief, and in the hope that the Government would yet reconsider this matter, and make the concession desired,—a concession which would be doubly valuable in the present season, when an abundant rice harvest in Burma seemed to promise that the repeal of the duty would be attended with substantial benefit, and perhaps enable the trade to recover its footing in some of the markets in which it had been losing ground. He did not under-estimate the difficulties of the Indian Exchequer, and he would not willingly press unreasonably or unfairly his views upon the member of the Government in charge of the finances; but it was the inevitable lot of whoever undertook to administer a finance summing up fifty millions sterling on either side of the account, to find himself face to face with great first principles, such as he had been speaking of, and in proportion as recogni-

tion to these was refused—in the degree in which they were silently ignored—to that extent would public confidence in these annual financial expositions be withheld, however clearly they might be drawn up, however elaborately expounded.

He would have been glad had the exposition now under discussion afforded a little more explanation upon the loans contracted during the current year! We were told that the Government of India had managed to get through the year without the loan which it was thought might have been necessary, which was satisfactory; but at the same time we were informed that the Secretary of State had not only borrowed the full amount mentioned in last statement, but also 1½ million in excess, and that he had intimated his intention of borrowing 2½ millions more during the current year. Now, looking at our large balances, he did not quite understand how this excess of home borrowing during the current year became necessary; and what he should like to ask was, whether these loans were contracted under the requisition of the Government of India and with their sanction, and whether the same conditions would apply to the loans to be raised during the coming year; or whether the words "intends to borrow" signified that the amount in question was to be raised without the concurrence or wish of the Government of India. If the latter interpretation was correct, then the arrangement appeared to him highly inconvenient and irregular, to say the least; and this from two points of view. The Secretary of State was of course recognised as the supreme authority in all matters relating to India; but in another sense he was, as had been stated, only the agent of the Government of India. Accepting this position, it clearly followed that head-quarters were here; that here, all financial measures of every kind must originate; that there lay upon the Government of India the duty of providing funds from time to time to meet their obligations in England, but that with them also must remain the discretion of providing these funds in the manner they deemed best, whether by acceptance of drafts upon them, by direct remittance, by loan raised here or in England at their request. The principle of an agent contracting large loans without previous understanding with his principal did not commend itself to his judgment. Then, again, this home borrowing appeared to be done quietly, without that ample publicity which always attended upon loans issued by the Government in this country. The average rate of interest mentioned in the exposition did not indicate that any saving of consequence had attended this practice, and even were it otherwise, he thought it reprehensible. Holders of Government securities were not in the position of first mortgagees, and in his

opinion, they had a moral claim to receive, in all cases where an addition to the permanent debt of the country was about to be made, that ample notice which was given in this country. He was aware that the solution of these matters probably lay at home, but he thought they were well worthy of attention. No system of finance could work well with two heads; and if there was, as seemed implied, an authority in England, either altogether irresponsible, or only checked by the very mild control Parliament had hitherto exercised on the question of Indian expenditure, which could raise money at will without the concurrence of this Government, the efforts made here to put the finances on a sound footing might be seriously hampered.

There were several other points in this most interesting exposition, to which he would like to refer, but he felt that he had already sufficiently occupied the time of the Council. The statement was admirably drawn up; and although pre-eminently framed for safety, he would, as already said, have been disposed to grant, for one year, the taxation asked for in this Bill, in the hope that its renewal would not be required at our hands. His belief was that we now possessed an income sufficient for the wants of the country; an income which, if properly administered, would not fail us, and for any further margin of surplus, he thought we should look more to reduction of expenditure than to new revenue. All would approve the determination of Government, as expressed in the concluding portion of the exposition, to pay all ordinary expenditure out of revenue; but then, the term 'ordinary expenditure' must not be abused and stretched as of late years; for he thought none would deny that the financial troubles from which we seemed now to be emerging, arose, not from failure of revenue, but from lavish, and, he feared he must add, often ill-considered, expenditure. With this cardinal point kept well in view; with a continuance of that judicious economy which had in the last eighteen months effected so much; and with the recognition of sound financial principles, he doubted not that the Hon'ble Gentleman in charge of the Exchequer would soon attain the fulfilment of that hope to which he once heard him give public expression, "that to him it might be given to bring the vessel of the State out of the storms and tempests of chronic deficit; into the smooth and quiet haven of assured and continuous surplus."

His Honour the LIEUTENANT GOVERNOR did not propose to enter on the present occasion on the broad questions of financial policy which were raised by the budget statement of the Hon'ble Sir Richard Temple and which this Bill was intended to carry out: he did not pretend to rise to that height. He did not propose also to enter on the question whether in his opinion an

income-tax ought or ought not to be imposed. He would candidly confess that he had not arrived at a final and satisfactory opinion on that point. He would therefore rather address himself to certain matters in regard to the form and character of the Bill before the Council. But before doing so, he should refer to the opinions expressed as to abuses in the levy of this tax in Bengal. His Honour was new to this Government, and was therefore not prepared to enter on the question as to how far that opinion was well founded; but he was quite prepared to admit that there was a strong feeling of objection to the income-tax on the part of the tax-payers, and on the part of the officers of Government and others in Bengal who had been acquainted with the working of the law. Having lately passed through the provinces under the government of several local administrations, he was prepared to say that the feeling against the tax was universally prevalent in these local administrations, including the Presidency so well represented by his hon'ble friend on his right (Mr. Chapman) who was not opposed to the Bill.

His Honour's observations would then be addressed to the form and character of the Bill which was now before the Council. The most marked and the newest feature in this Bill was that there was no limit or duration of time, and that it might therefore be assumed to be a perpetual Bill; that was to say, a Bill that was to be continued until the wisdom of this Council should otherwise determine. He might also assume, when he alluded to the character of the Bill as a Bill without limit of time, and to the very moderate character of the assessment proposed, that the object and intention of the Bill was that which had often been suggested, namely, that we should have a light and easy tax, so worked that it would not be strongly opposed in ordinary times, but which would enable us to raise, in times of emergency, a heavier tax, as we had in the year just passed. He thought, if that was the plan, that it was subject to this imputation, that when it was, as now proposed, a light tax, it was not worth the trouble and vexation which it produced; on the other hand, when, in times of necessity, it was made heavier, it was not worth the extreme opposition and ill-feeling which the past year showed that it engendered on such occasions. He confessed that he had long had doubts as to the policy of an income-tax as an imperial and general tax in this country, and he might say that these doubts were increased by the observations which had been made by Hon'ble Members today. On the other hand, looking at the increase of wealth in the country, though it might be said that the riches of the rich were exaggerated; seeing that, in many provinces, there was a rapidly increasing growth of wealth, it was a necessity of the times that we should have some mode of taxing these riches, or at least of making a beginning of taxing

them, and so levying a considerable income, if not immediately, in the future. Well, then, he would say that, not discussing the question whether there should or should not be a permanent income-tax, but assuming such a tax to be determined on, he was inclined to think that it would be better to keep it high for two or three years at least. You would then be able to judge surely where the shoe pinched; you would then be able to see whether, in point of fact, it was worth the evils attending its collection, and whether it was capable of being collected in a just and equitable manner; and, if not in its present form, whether it was possible to adopt any other form in which it would be worth the evils of collection. He also differed from the Hon'ble gentleman opposite (Mr. Robinson) who took so sanguine a view of our financial prospects. On the contrary, he thought that, inasmuch as the Hon'ble Member who introduced this Bill, and who was the best judge of our financial prospects, made the calculations he did, he seemed to have sailed somewhat near the wind; because, from the statement which he had made, it appeared that the surplus was almost infinitesimal. His Honour hardly hoped that the Hon'ble Mr. Robinson's sanguine expectations in regard to the receipts and expenditure might be realized; and that the whole total of the revenue might be increased to the extent he anticipated, and that the expenditure might be lessened as he hoped it might. That was a view which was not quite like that which had been realised in other years. In fact, with reference to the question put by the Hon'ble Mr. Chapman, suggesting that the Government should arrange what was to be done with the surplus, he would observe that you must catch your hare; you must first get your surplus before you could dispose of it.

He would now go into the budget of the year, solely as affecting the Income Tax Bill now before the Council. He always had been of opinion that the Government of this country, whether they were right or wrong in imposing an income-tax, were undoubtedly right in that they did boldly face the fact of the deficit and boldly face the necessity of imposing a tax, instead of adopting the vulgar expedient of making up the deficit by means of loans. Now, today, we lived in happier times. The deficit of a million and a half which existed when the last statement was made had been now reduced to an infinitesimal surplus, to use a somewhat Irish form of expressing it. That change had been effected in this way. There had been an increased estimate of the yield of Opium, and a part of the deficit had been turned over to the Local Governments. He thought we ought not to lose sight of this fact that, in reducing the income-tax from three and one-eighth per cent. to one and a fraction per cent., it had been effected by turning over a part of the deficit, nearly £350,000, to the Local Governments, and requiring them to make that deficit good in the best way

they could. That deficit was not only a very considerable deficit at the present moment, but was explained by the Hon'ble Sir Richard Temple to consist of charges which were rapidly growing, and which probably would continue to grow. He had seen it asserted in the newspapers, that the Government of Bengal were in a position to carry on, without additional taxation, the obligations that were imposed upon them by the Government of India. He was sorry to say that statement was wholly inaccurate; because the Government of Bengal was not yet in a position to deal with the question, and he was afraid that it would not result in the favourable manner that had been suggested in the newspapers. He should like to call the attention of the Council to the means by which it was proposed to meet that portion of the burden which had been transferred from the Government of India to the Local Governments, and which enabled the Government of India to reduce the income-tax. That was to be done by local taxation. He would lay aside the proposed cesses for Education and Roads and the like, which, he thought, were not altogether properly before the Council, because they were to be imposed for particular objects which were not the obligations which had been transferred to the Local Governments. He might state that what had fallen from the Hon'ble Messrs. Robinson and Chapman in regard to these local cesses was very much to this effect. They said, we, the local powers, are squeezing the people as hard as we can; for God's sake don't you come in and squeeze them any harder. His Honour had endeavoured to ascertain how the Local Governments proposed to meet the deficits thrown on them by the recent scheme of financial decentralization promulgated by the Government of India. Well, he had looked at the course followed, or which was likely to be followed, by the Local Governments, and he found that, putting aside the local cesses, the invariable resource was something in the nature of a license-tax, with which we were all familiar, and which had been at various times proposed to supplement the income-tax or as a substitute for it. He found that the license-tax seemed to be a limited sort of income-tax roughly imposed by grades, and not by a percentage on income, and that the limit did not go higher in the North-Western Provinces than six rupees. He found that the general effect of the proposed license-tax seemed to be that the Local Governments proposed to meet the deficit by a rough income-tax on the smaller incomes; those very incomes the Government of India had taken the credit of exempting from the income-tax. His Honour's view was that these license-taxes were really income-taxes on incomes not affected by the income-tax. They differed from the tax which had been taken off by the Government of India in this, that they exempted the richer and more influential classes of the people.

As he had said before, he thought it was not right to bring in the question of local cesses as regards the burden of taxation on the people; but he would ask to be allowed to say a few words with reference to the form of local taxation in Bengal. He had lately looked over the various Acts of this legislature, and those of the local legislature under which local taxation was imposed in Bengal, and he had enquired into the working of these local taxes; he found that several of these taxes were taxes on houses and on other things, while others were taxes on the means of the persons to be taxed. The most common and most popular, or rather the least unpopular, of these taxes was a tax described as a tax on the circumstances and the property to be protected of the person to be taxed; that was to say, a tax of the nature of a rough property and income-tax, a tax graduated with regard to the circumstances and property to be protected of the person liable to be taxed. Perhaps this was the fairest of all forms of taxation. Well, here was one local income-tax, and it might be that we would have to impose cesses for Roads and Education and other matters, and that some of these also might take a similar form. The result seemed to be that it might be said with some justice that, instead of having one income-tax, you would in future have several income-taxes in different forms; since it was pretty clear that the greater portion of the income-tax was going to be taken off, and also that the Local Governments would have no power to re-impose it. Several Native gentlemen had made this observation to him—"We had rather not be taxed at all; but if we must be taxed, we had rather pay what we must pay once for all in the shape of an income-tax, than have to pay half a dozen different taxes."

The question was whether, in case it had become necessary and desirable to impose a tax in the shape of a tax on incomes, you should not, as he understood was done in America, appraise a man once for all, and then put on all the taxation that it was necessary to raise, calculating a penny for this purpose and a penny for that. In the course of a few minutes' conversation with an eminent American Statesman who was lately in this city, he had learned that taxation for local and provincial, and even for general, services was raised in this way in the United States. That raised the question which had been raised by the Native gentlemen who had talked to him on the matter, whether the Natives of Bengal would really prefer an income-tax to any other; whether it would be permitted to us by the Government of India to add a local income-tax to the imperial tax imposed by this Bill; whether we could add to the income-tax the sum just taken off by the Government of India for local purposes. He did not believe that he really could do so. He would be met by the overwhelming resistance of some important classes. This led him to turn over in his mind

this important question, whether the strong objection to the income-tax entertained by many classes, and by none more strongly than by European gentlemen resident in India, had not some good foundation; whether there was not a great deal of reason in the objections which they alleged against the income-tax as it now stood in the Bill before the Council, and in the former Bills which had been passed into law. The first prominent feature in this Bill, which struck him as distinguished from the English Income Tax Act and other Acts of the kind, was that the word "property" was omitted in the title of the Bill; that it was called a Bill for imposing duties upon income, "property" being assigned a secondary place as regards the objects for which the tax was imposed. We knew that many Statesmen and Political Economists ha d held, and did still hold that, in respect to principle, the great objection that appeared to the income-tax in England was, that the tax was imposed equally on incomes derived from property and from labour. It was said, and he thought most reasonably, that income derived from property was a much more valuable possession than income derived from labour. Income derived from property was protected to a greater degree than income derived from labour. The Commissioners of Inland Revenue had always raised departmental objections as regards the difficulty of carrying out a distinction of that kind. Individually, His Honour thought there was no good reason for that objection in England, and that injustice was done by the present mode of taxation. But, when he looked to the state of things in India, it seemed to him that these objections were *immensely* increased, and most obviously so in the case of Europeans who were earning their living in this country, where both Government servants and the independent classes of the European community were not permanent residents having a strong interest in the country, but who came to the country for a term of years, and who realized during those years an abnormal income, and could not hope to remain for the period of their lives in the country, and where, as a matter of fact, they did not remain. As a matter of fact, gentlemen remained but a few years, in the hope of making such a use of their income as would enable them to make a provision for their families and for themselves in after years. It did seem to him that to tax incomes thus derived was to tax, not so much the income of the year, as the capital set by for the support of their families hereafter. Therefore, he believed that, if there were objections to this form of taxation in England, they were infinitely stronger here. We should study the American model and other forms of municipal taxation, and carefully adjust the incidence of taxation if this tax was to be maintained at all.

This brought him to the fact that, owing to financial considerations and other circumstances, the income-tax had never been properly discussed in

the light of day. He was sure, if his memory served him rightly, and certainly as regards late years, that the practice had been that there had been no time for discussion; that Income Tax Bills were introduced late in the session, and that the Council was told they must pass them or reject them, and the result had been a sort of 'stand and deliver'; that the Council had passed the Bills without much discussion or inquiry. It might be that this state of things had been submitted to because people hoped that it would be only a temporary measure. But now that we had the tax in a form which probably would be perpetual, he wished very earnestly to suggest that it was immensely desirable that the present Bill, before it was finally passed, should be most fully and thoroughly considered; that opportunity should be given, not only to Hon'ble Members who in some respects represented the local administrations, but also to the mercantile members of the Council, who could render much assistance in its consideration; and opportunity might also be given for getting information from others outside of this Council. He had alluded to the information which he had obtained from the eminent American Statesman to whom he had already referred; and he had discovered that there were several American gentlemen in this city who were capable of giving great information with regard to the mode in which the income-tax was imposed in America. Now, one week was much too short a period to overlook this Bill in a proper manner; to overhaul it and put it into shape, if it was expedient at all to pass it. He was aware that, if at this season he proposed to extend the time for the submission of the Select Committee's Report, he would be treading on very delicate ground; and perhaps it would not be becoming in him, who was a local member of the Council, and must stay in Calcutta, whether or no, to suggest that it would be desirable for the Committee to sit for a longer period than it was proposed to do. But he would suggest that it would be not unfitting that the Government should accept the suggestion thrown out by the Hon'ble Mr. Cowie, that this Bill should be passed for one year, not in the expectation that the Bill would then cease, but with the intention that, very early in the next session of the Council, it might be re-introduced at a time when there was ample opportunity to refer it to a Select Committee, with power to make ample inquiry and to put the Bill into a shape as acceptable to the public as any Bill of this kind could possibly be.

He would now detain the Council for one moment in order to suggest an alternative proposal. The plan which he suggested was this. He had always had great doubts whether this tax was really fitted for imperial taxation. It seemed to him that the effect of imposing an imperial income-tax had been, and was likely to be, to render both your local officers and the people its hot

opponents. An Hon'ble Member on his right (Mr. Chapman) spoke of the effect of the tax as snapping asunder the slight cord of cordiality between the governors and the governed. His Honour was bound to say that his experience of this tax was that, so far from this Bill having that effect, the result of the income-tax had been to unite governors and governed, Local Governments and officers, and the people, in the most hearty cordiality in abusing the tax. But it appeared to him that this tax was perhaps more suitable for purposes of local rating than for purposes of imperial taxation; for, although there were infinite difficulties in the way of imposing this tax as an imperial tax, when imposed as a rough local income-tax on the means and property to be protected of the persons liable to the tax, every man had a sort of interest in seeing that his neighbour paid his due proportion of the tax; for if his neighbour paid too little, he might have to pay more than his proper share to meet the amount required to be raised by the tax; and the local officers, moreover, would have an interest in the objects for which the tax was imposed, seeing that it was imposed for the benefit of the people of the locality in which it was levied, and not for the purposes of the Imperial Government. Some local officers had even spoken as if the Government of India was a sort of alien and hostile and tyrannical Government set over them. The suggestion, then, that His Honour would make was that, if a tax of the sort he had been describing might possibly be less unsuitable for local purposes, the Government of India should consider whether it might not be able to make it over to the Local Governments with a proper amount of additional charges, as had been done in the case of other items of account entered in the Budget. It seemed to him that that might be done. And in making over the income-tax to the Local Governments, the Government of India might say—"If you do not like an income-tax, it will rest with you to take the responsibility of manipulating the tax, and putting it into a shape suitable to the people, or of substituting for the income-tax some other tax for the purposes for which the income-tax is imposed and for which it is assigned to you." The only objection he had heard to a plan of this kind was, that there were some gentlemen sitting here who were in no sense local officers; but as regards local officers and merchants and others, the Bill already provided for the determination of their local habitation and for the taxation of every man in the country. This difficulty of the want of locality could apply only to persons who were connected with the Government of India, and His Honour was quite willing that they should be taxed by some special machinery. If this tax was made over to the Local Governments, the responsibility of providing means to meet the charges on account of which the tax was transferred to them would rest with those Governments. If they thought it desir-

able to retain the tax, they would have the power of modifying and altering and extending it; if it seemed desirable to those with whom the determination of doing so or not rested, they would retain it. But it was always to be remembered that the tax could not be repealed without the consent of His Excellency the Governor General, who by law held the power of controlling the legislation of the Local Governments, and thus would be able to see that the income-tax was not put aside without a sufficient substitute.

That was all that His Honour had to say as respects this question of an income-tax. He had commenced by saying that he did not propose to go into the broad financial questions that were raised by the budget-statement. He would only propose to say one word with reference to what had fallen from the Hon'ble Mr. Bullen Smith, who so well represented the commercial community in this Council. His Honour must say that he was very much struck with the observation Mr. Bullen Smith had made with respect to the rate of the duty on rice, and the weight of the duty, and as regards the difficulties connected with the exportation of rice. His Honour also felt that there was something to be said on the other side, as to the advisability of putting an export-duty on the staple food of the people. Such a tax as a tax on the exportation of food, had a tendency to keep the food at home. He would express the hope that this matter would receive the full and impartial consideration of the Government of India, with reference to the state of circumstances at present existing, which were possibly different from those existing at the time when this duty was imposed.

There remained only one point on which His Honour would remark, and that was with reference to the question of borrowing. He was not a financial man, and did not pretend to enter upon the consideration of this question in a strictly financial point of view. But as a social question, he was very much impressed with the impolicy of carrying all our loans into England. It was said that it was a political advantage to have the people interested in the security of the Government of the country, and that it was a safe-guard against revolutions and political dangers. He did not wish it to be supposed that he was anxious to create a large debt in India on this supposition. He was against borrowing more than could be helped; but if you did borrow, he thought the Government of India should avail themselves of the advantage which the offer of the loan to the people of the country did undoubtedly give. He said that, not only with reference to the course proposed to be adopted on the present occasion, but also with reference to all future occasions when it

was proposed to borrow. There were in this country very few modes of investment. The District Savings Banks had not yet been established to any great degree. In Lucknow especially, there had been a large class of people who were much impressed with the security of incomes derived from the Government. We had a very large number of small pensioners there, the payment of whose pensions was so troublesome, that the Government were at one time exceedingly anxious to capitalize their pensions and pay them off; but it was found that the pensioners would not accede to the proposal; they preferred to have a fixed income from the Government. The experience of that and other occasions had brought to his mind this conviction that, if we went to work in the right way; if we left it open to the Collector to receive from the people small sums the interest of which would be readily payable, we should in that way receive a large sum in satisfaction of a loan from our Native fellow-subjects. The difference in value of the loans here and in England was very fractional. The difference was not more than one or two per cent. He observed that, at present, Government four per cent. securities stood in England at ninety-nine and a half, and here it was as high as ninety-eight. He spoke with reference to the value of the Government funds in this country; and he believed that, if Government securities did not sell at ninety-eight, they certainly sold at ninety-seven. The difference was merely fractional, and that very small fraction was, he thought, more than counterbalanced by the Government obtaining an additional security, from the people of the country being largely interested in the debt of the country, and giving facilities to the saving people for investing their savings.

COLONEL the Hon'ble R. STRACHEY did not propose to trouble the Council with any remarks as to the details of the measure now before the Council. All that he desired to say was, that the difference was very great between the feelings of those persons who were responsible for carrying on the administration of the country and finding the revenue and giving proper means for carrying on the Government, and those who had no such responsibility. It had been remarkable how the tone of the debate upon this Bill had changed as it had travelled from one end of the room to the other; and how, in proportion as a specific responsibility for carrying on the Government had become developed in those Hon'ble Members who had spoken, so their feelings in favour of the measure had been found to rise. Whether the Government was necessarily right in what was proposed in this matter, it was not for him to say. But it was certain that every member of the Government felt the obligations placed on him to do the best for the country and what was most practicable.

It was absolutely necessary for every Statesman to consider, not only what he considered theoretically best, but what was possible. Having said this much, he should only add that it was his intention to support the Bill.

The principal point to which he should ask the attention of the Council on the present occasion was the great change which had been recently made under the orders of the Government of India in the system of financial administration. His name had been mentioned in connection with this change, and also in connection with the general subject of the finances of the country, and of the expenditure of the Public Works Department, which had been so frequently called into question.

In the first place, as regards himself, he begged to disclaim any very particular credit in reference to the change which had been made in the financial administration. The mere preparation of a scheme for giving practical effect to a principle which had been accepted was, after all, somewhat mechanical. The truth was that this reform, like all others, was brought about, not by the action of any individual, still less by himself, but by the necessary and unavoidable result of the course of events which had arisen in the carrying on of the Government of India—events the pressure of which for a long time had proved so imperative as to force upon the Government of India the definite course of action which they had recently taken. If there was any merit in having seen that such a result would be inevitable, such merit he might claim; but there was no doubt that the actual adoption of the scheme was due to the Government, and principally to the head of the Government, on whom the responsibility of carrying out the change must rest, and with whom also would rest the claim for any credit or blame which might result in the future from the consequences of the change.

Before going on with the further remarks which he desired to make, he might say one word in respect to his right to offer an opinion on the subject which he was about to discuss. He had now been connected with the administration of the Government of India, at intervals, for about fourteen years in the Public Works Department. During that time, he had been an agent on behalf of the Government of India for controlling the very large expenditure and the very large establishments of that Department. He knew personally, from his own experience, what was the nature of the system on which such expenditure was controlled, and he knew also what had been the nature of the claims made on the Government of India to supply the means of expenditure, and the character of the control exercised in meeting such demands.

Returning now to the general question to which he would specially ask the attention of the Council—the alteration of the system of financial management—he would remark on the singular difference of opinion that had arisen as to the value of the change. On the one side, certain portions of the critics had taken up the position of extreme opposition. They alleged that the change would lead to the disintegration of the power of control of the Central Government; they said that it would also lead to extravagance and waste on the part of the Local Governments, and that it would also lead to improper and injurious taxation. On the other hand, those who supported the change said that it would do exactly the opposite of all this. He admitted,. after all, that this was the fate of all proposals to carry out any considerable administrative change; and in truth on such a subject the mere opinions of either party were really not of much value. For these reasons, he would ask the Council to let him put before them the actual facts of the expenditure and revenue of the Government of India during the last ten years, and he would ask them to judge for themselves as to what really was the state of things at present. He did not desire to go into speculations as to what the probable revenues and expenditure would be during the next year. The only really solid ground that any financier could have, in dealing with the future, was carefully to ascertain and appreciate the actual facts of the past, and this was what he would now ask the Council to do.

In the first place, the actual accounts proved that the total expenditure of the Government of India during the past ten years had increased by very nearly six millions sterling. In the year 1861-62, the total charge was £44,100,000; in 1865-66 it was £46,300,000; in 1870-71 it was £50,050,000, showing an increase, between the years 1861-62 and 1870-71, of £5,950,000. It was true that this increase of expenditure had also been attended by a corresponding increase of revenue; otherwise, of course, the country would have been in a state of hopeless bankruptcy. But, really, the state of things which admitted of such an increase of expenditure in nine years was not the less serious on account of such increase of revenue.

He would now ask the Council to follow him whilst he explained, as briefly as possible, the elements of this great increase of charge, which, in his opinion, had been referred to altogether wrong causes, and while he fixed the responsibility for this increased expenditure on the causes to which it was really due. The figures which he would take were based on the regular estimate of 1870-71: he thought it better to take those figures, and to refer to them than to the estimate of the coming year which had been laid before the Council.

The separation, in the new budget, of the provincial charges made it difficult to make a comparison with the expenditure in previous years.

He had said before that the total increase of expenditure was £5,950,000. First of all, however, before going into details, he should explain that a good deal of this increase was due to the manner in which the accounts had been kept, and was merely nominal, having arisen from the increased strictness in the keeping of the public accounts. Nothing in the shape of deduction was now allowed; and the whole of every charge in the gross, without set-off, was considered as expenditure, in the same way as all income in the gross was now considered as revenue. There were also certain administrative changes which had led on the one side to the apparent increase of expenditure, and on the other to the apparent increase of income. Amongst these charges he might notice that under which official postage was now shewn as a charge against every Department, and that which required service telegrams to be paid for. These charges, of course, led to equivalent increases of revenue.

Again, an important change, causing an important addition to the apparent expenditure, had been made as a consequence of the amalgamation of the Indian Army with that of Great Britain. This was the abolition of the Army Service Funds. Now, the pensions which used to be paid from these Funds were discharged by the Government, the Government having *per contra* taken over the payments which were made by the officers who contributed to these Funds. The increase of charge had thus, to a certain extent at least, been accompanied by a corresponding increase of income. To what exact degree the accounts had been affected by these alterations of system it was quite impossible for him to say.

The first item which he would take, in proceeding to discuss the details of the total increase of charge, was the expenditure connected with the Army. In 1861-62, the total charge on account of the Army was £16,220,000; in 1870-71, it was £16,300,000, showing an increase of only £78,000. But, so far as he could make out, the accounts for 1861-62 shewed the charge after a large deduction of £937,000. He apprehended that, if the accounts had been kept as they were now, the charge for the Army would have been £17,160,000, instead of £16,220,000. If that was the case, there would have been a reduction of charge of no less than £860,000. Consequently, it might be positively affirmed that the Military charges had nothing to do with this great increase of expenditure.

The next item was Public Works. The Public Works charges had, up to the present time, been the scape-goat upon which all the obliquities of the

finances had been thrown. Let us see what were the facts here. In 1861-62, the Public Works expenditure chargeable against the revenues for ordinary purposes, including everything except the Railway charges, was £4,115,000. The charges on account of Railways, including guaranteed interest, were £2,065,000. The total charge was therefore £6,180,000. He might say, here, that it was too commonly the custom, in dealing with these Public Works charges, to overlook this very important item of Railway interest, which was, of course, just as much a Public Works charge as money spent in the construction or repairs of any public building. Well, in 1865-66, the total expenditure under these two heads was £5,200,000, or £900,000 less than it was in 1861-62. In 1870-71, the total expenditure would be £6,039,000; therefore, the expenditure in this year on account of the Public Works Department was no less than £141,000 less than it was in 1861-62; and during these nine years the revenues had increased seven millions sterling. If anybody, on the face of that, could say that the Public Works expenditure now formed an improper burden upon the Government of India as compared with the expenditure in 1861-62, COLONEL STRACHEY must say that he could not agree with him. The expenditure upon Public Works Ordinary had been reduced by £175,000; but that did not really show the whole extent to which reductions had taken place. In the year 1861-62, the charges for Military Buildings amounted to £638,000; in 1870-71, they amounted to £950,000. The consequence was, that the Military expenditure during the last year had been £300,000 more than it was in 1861-62, and a corresponding reduction had been made, from the sum remaining from the total grant, for the other items, Roads and Civil Buildings. The consequence was that the reduction on these heads was no less than £475,000. He thought that, after that statement, no one could say with any degree of propriety that the Public Works grant had not been cut down as low as it possibly could be. His own opinion was that if, with any degree of reason, it was practicable to give a larger grant for Public Works, that larger grant ought to have been given. But he entirely admitted the absolute necessity of doing what was requsite to maintain an equilibrium in preference to anything else. For that reason, he had never hesitated in supporting the Government of India in the way of retrenchment in order to effect an equilibrium.

In order that the Council should correctly understand the position of the Public Works expenditure, he would remark that the year in which the Public Works outlay was the greatest was the year 1868-69—a year to which he had not before referred—in which it was £8,284,000, or two and a half millions in excess of the sums which he had taken in his comparison. But it would be

remarked that the total outlay of the country in that year was also two and a half millions in excess of the total of the years to which he had referred. The consequence was that, if in 1868-69 the Public Works expenditure had been reduced to what it was in 1870-71, the total expenditure would still have been upwards of fifty millions, and still six millions in excess of 1861-62, and therefore the unusual Public Works expenditure of that year had nothing whatever to do with that general excess of charge. The absolute deficit in 1868-69 was £2,774,000, and there would still remain a deficit of half a million if the extra outlay of two and a half millions had not taken place. Of course the large Public Works expenditure in 1868-69 assisted in causing the deficit of two and three quarter millions; but the deficit was obviously quite as much due to the great simultaneous increase in the whole of the Civil charges to which he should now proceed to refer.

He would next remark on the interest of the Public Debt, with which he included the interest on deposits in the hands of the Government, upon which the Government paid interest. In 1861-62, this charge amounted to £5,190,000; in 1865-66 it amounted to £5,200,000; and in 1870-71, it amounted to £5,840,000, which showed that there had been a small increase in the charges for interest on account of the Public Debt. But this was reduced again by an increase of interest received by the Government, so that the real increase of charge was not important.

The Deductions from Revenue—under which he took actual refunds from revenue, and those appropriations of the revenue under Treaties and Assignments, which in reality were not charges, as they never formed part of the revenue, were, in 1861-62, £2,230,000; in 1865-66 and in 1870-71 were nearly at the same amount.

The total of these elements of charge—Army, Public Works, Interest on Debt, and Deductions from Revenue—being taken away, the rest were purely Civil charges. The total so to be deducted was, in 1861-62, £29,800,000; in 1865-66, £29,400,000, and in 1870-71 £30,250,000, showing an increase, between 1871 and 1872, of £424,000, which was mainly due to an increase of debt.

Therefore, the remaining expenditure for Civil charges was as follows:—In 1861-62, it was £14,274,000; it was raised in 1865-66 to £16,860,000; and was still further raised in 1870-71 to £19,800,000. Consequently, the increase in the Civil charges proper was £5,530,000. He would ask anybody to compare this great increase of the Civil charges with the absolute and positive

decrease in the Public Works expenditure, and then to say to what any present financial difficulties of the Government of India, such as they were, were actually due.

He would now follow this increase of £5,530,000, and let the Council see where it came from. First, he would refer to the Home charges. A great part of these charges consisted of expenditure in regard to which the Secretary of State was only the agent of the Government of India. There was a large expenditure incurred in England on account of the payment of pensions and the salaries of officers on leave. Also, a large charge on account of the Army for stores, and payments to the British Government on account of the European troops. He thought the idea often entertained, that the financial management in the India Office was lax, was altogether erroneous. His opinion was that the administration of the Secretary of State in this respect was unexceptionable. He did not mean to say that such items of expenditure as the grant to the Mysore Family and the Ball to the Sultan might not be fairly criticized; but they were not recurring charges, and could not justly be regarded as causes of financial difficulty.

The first portion of the Civil charges was for the General Administration. In the course of nine years, this showed an increase of £500,000. In 1861-62, the Home charges, which gave the whole cost of the administration in England, were £185,000; in 1865-66, they amounted to £184,000; and in 1870-71, they stood at £207,000, showing an increase of £22,000, or little more than ten per cent. Consequently, the rest of the increase, £480,000, was due to the General Administration in India.

He next came to what might be called subsidiary administrative charges, such as the charges for the Diplomatic, Marine, Medical and Educational Departments. All these branches of administration had led to an increase of £630,000.

He now came to Law and Justice. On this, there had been an increase of no less than £1,183,000 since 1861-62, of which one million was due to Judicial charges and £120,000 to Police. Allowing for the set-off in shape of receipts under these heads, the nett increase of charge was still about £700,000.

Next followed the charges on account of the Departments for the collection of the revenues. The charges on account of the Land Revenue and the administration of the Forest Department shewed an increase of £588,000, about £300,000 of which was due to the increase of Forest Establishments, and the

remainder was chiefly due to the increase in the outlay on Revenue Surveys and Settlements. Under the head of Excise, there was an increase of £210,000; under the head of Income Tax, there was a reduction of £77,000. In the Salt Department, there was an apparent decrease of £280,000; but this was only apparent, because, in 1861-62, £400,000 was spent in Bengal in the manufacture of Salt, which had after that year ceased, so that there had been a virtual increase of £100,000. Opium shewed an increase of £624,000, which, he presumed, was due to the increased area under cultivation. In Stamps, Stationery and Printing, there had been an increase of £200,000, which was largely due to Printing. The whole of the Departments for the collection of the revenue gave an increase of £1,294,000. Against this was no doubt a large increase of income, amounting to about five millions, but to the increases he would call attention presently.

Then came the charges on account of the Mint, Post Office and Telegraph Departments. The expenditure on account of the two last shewed a considerable increase; but both those Departments shewed also an increase of revenue which more than compensated the increase of charge.

He now came to the charges on account of Pensions, which had risen in India from £612,000 to £679,000, showing an increase of £67,000. The charge on account of Home Pensions had risen from £276,000, in 1861-62, to £288,000 in 1865-66, and to £780,000 in 1870-71, showing an apparent increase of £500,000. He thought it was to be regretted that the accounts did not show what were the actual charges against the revenues on account of Pensions, and how far the outlay was covered by the payments to Funds. This point, he was of opinion, was worthy of the attention of the Financial Department.

The last item was on account of Miscellaneous Charges, which amounted in 1861-62 to £520,000, in 1865-66 to £1,383,000, and in 1870-71 to £1,400,000; showing an increase of £875,000. It was only necessary to remark, on this, that there appeared a tendency to throw more and more charges under the head of Miscellaneous, which had now consequently become a formidable item, being now commonly over a million sterling. He thought that it was very desirable for the Financial Department to consider whether it might not be possible to do something to show these charges more in detail, in order that the public might see what was their nature.

Before leaving the question of Public Works expenditure, he would observe, in regard to the expenditure on account of Barracks, that, out of the ten millions which it was supposed in 1865-66 would be necessary to provide for the ac-

commodation of the European troops, six and a half millions had been expended up to the end of 1869-70, and out of that sum about four millions was for new buildings. He was not able to say, at the present moment, what the amount was likely to be at the end of the present year. In general terms, he might say that the Government of India had made up its mind that it would not continue the construction of the upper-storied Barracks more than was necessary by the present condition of the buildings in progress, or than might be requisite to provide buildings of that character to ensure the health of the troops in unhealthy localities. He had no doubt it would be found that a considerably less amount than the residue of the ten millions would suffice for the satisfactory housing of the European Army.

With reference to the money made available to the Local Governments under the head of Local Public Works for the coming year, complaints had been made in various quarters that the grant was not what it ought to be. The fact was that the grant of 1871-72 was within £100,000 of what it was in the current year, and of that amount there was, for Roads and Buildings, £80,000 more than there was in the current year. The expenditure for the coming year on account of Public Works would be £5,974,000, which was about £100,000 less than was estimated for the current year, and, consequently, about £275,000 less than the outlay in 1861-62. He confessed he did not think that that was a satisfactory state of things, but it was all that could be afforded for the Public Works Department, and we must get on as best we might.

From a consideration of the figures he had stated to the Council, it was apparent that it was fortunate that the grant for Public Works had been so completely within the control of the Government of India. It had been found possible to reduce that expenditure suddenly, and by means of that reduction the Government had been able to bring the finances to a practical state of equilibrium. The control of the demands that had led to this great growth of charge, the details of which he had explained, had been the practical problem which the Government of India had to solve; and the conclusion to which it had come was, that this could be done only in one way, namely, by putting a specific limit to the power of the local administrations to increase the present outlay under certain heads of services, except so far as they could find the means of meeting the increased outlay by increased income.

His Honour the Lieutenant-Governor, when he addressed the Council last week, although he agreed fully in the propriety of the general measure which the Government had adopted in relation to the financial administration, made a complaint that the amount placed at his disposal was somewhat smaller

than he should desire to obtain for carrying on the administration of the province under His Honour's control. It had always seemed to him that one of the most singular features of the relations between the Local Governments and the Government of India was the difficulty which the local authorities had in perceiving the utter impossibility there was on the part of the Government of India to find money for them when it did not exist. All that the Government of India had been able to do for the coming year, without getting into further financial difficulties, was to distribute to the local authorities such sums as could be provided, after carefully examining the relative claims of each province, from the whole amount available for the purpose.

It would be useful before he ended to consider, in relation to the growth of charges of which he had spoken, what had been the condition of the revenues. In 1861-62, the total revenue was £44,000,000; in 1865-66 it had risen to 49,000,000, and in 1870-71 it was £51,000,000, showing an increase of seven millions. There was an increase under almost every head of income. The increase under the heads of Salt and Opium, the two most important of these heads, was, in Salt 1,500,000, and in Opium £1,600,000. Allowing for the increase of charge corresponding to the increase of revenue, it would be found that, in the case of Opium, the actual nett increase of revenue had only been about one million. On the whole, the nett increase of the main items of revenue, after allowing for the increase of charge, had been £3,870,000, while the net increase of charge on the main items of expenditure for civil administration purposes, after allowing for increase of income, had been £2,700,000. The improvement corresponded to the surplus of the current year, but would be more than counterbalanced by the reduction of the income-tax.

Under the arrangements now made, it was proposed to give up the income-tax to the amount of one and a half million. Consequently, the increase of *Income* of seven millions, as compared to 1861-62, would be reduced to five and a half millions. Relatively speaking, therefore, and allowing for the increase of *Charge* of six millions in the coming year, the Government, on the whole, would be £500,000 worse off than in 1861-62.

That seemed to him quite a sufficient reason for the Local Governments being satisfied with the assignments made, and, when viewed in relation to the small surplus expected for the coming year, shewed that the amount of these assignments might be said to be excessive rather than anything else.

The general conclusion to be derived from this review of the revenues of India was to show that there had been an extremely satisfactory growth under

every head, and, under these circumstances, there could be no greater error than to talk of the unelastic character of the Indian revenues. In fact, the revenue had increased at the rate of nearly half a million a year, and it was quite evident that all that was really necessary to establish a perfectly satisfactory condition of the finances in future was to put a stop to the growth of the charges, for, in reality, it was wholly the increase of expenditure that had brought the Government into financial difficulties, in spite of the constant growth of the revenues.

MAJOR GENERAL the Hon'ble H. W. NORMAN said that, like the Hon'ble Members who had preceded him, he was not an advocate for the imposition of an income-tax in this country; but as he felt convinced that the proceeds of this tax were really required, he thought the Council might be well satisfied at the great step in advance which was now proposed to be taken in reducing the income-tax to one per cent., and in exempting from its operation all that large class of persons whose incomes ranged between rupees five hundred and rupees seven hundred and fifty per annum. He believed he was right in rejecting the idea entertained by some Hon'ble Members that, in accepting this Income Tax Bill, we in any way accepted the principle of an income-tax as a permanent measure. He would therefore support the Bill. But as he strongly felt that an income-tax afforded numerous opportunities for oppression and deceit, he looked forward earnestly and hopefully for the day when the income-tax in India would be a thing of the past. He thought, however, that the Select Committee to whom the Bill would be referred might possibly improve the present Bill.

With regard to what had fallen from the Hon'ble Mr. Chapman as to the possible reductions in the Military expenditure, he would take the opportunity of stating that, in compliance with the suggestion made last year by his Lordship, he proposed at a future stage to submit to the Council a brief statement of the measures which had been taken to reduce Military expenditure.

The Hon'ble Member had also alluded to the expenditure under the head of Marine. He would explain that that expenditure covered the cost of a great number of vessels and establishments on the rivers and sea-board of India, and also the charge on account of six vessels of Her Majesty's Navy placed at the service of the Government of India. A reduction of more than £50,000 had been made this year in the Marine expenditure, and the strictest attention was now being directed to economy in that and other branches of the service.

The Hon'ble MR. ELLIS said that he should not be justified in taking up the time of the Council with any explanation of the general financial policy

of the Government, as other members of the Government were far more competent than himself to do so. But he trusted that he would be excused for saying a few words as to the financial measure of this year, which closely affected many of the branches of administration with which he had been connected. Before touching on that subject, he begged permission to say a few words in reference to what had fallen from the Hon'ble Member opposite, in regard to the Bill now before the Council. He would not stop to rebut the assertion that the income-tax was not necessary on the ground that the receipts were under-estimated, and the expenditure over-estimated. He was of opinion that the estimates this year were framed with great care; but the Hon'ble Sir Richard Temple was better able to defend the estimates than he was. Admitting, however, that this reason for the abolition of the income-tax was well founded, he would still say that he could not concur with those Hon'ble Members who advocated its abolition. Even if it were proved that our out-turn was likely to be better than we expected, it would be incumbent upon us to relieve other interests, rather than abolish what remained of the income-tax. He thought the remarks made by the Hon'ble Mr. Bullen Smith and other Members in regard to the export-duties upon rice, and the sugar-duties in the North-Western Provinces, would show this. These items certainly would demand our consideration, with a view to their revision, if not their abolition, before we proceeded further in the reduction of the income-tax. As to the general policy of the tax, it was not as if it were a question of the first imposition of an income-tax. He never was enamoured of it. But now that we had it, he considered that it was of very doubtful expediency to do away with it without having something in its place. It was better, in fact, to bear the ills we had, than fly to others that we knew not of. This view of the question was supported by what had been related by His Honour the Lieutenant Governor, who told us that, in spite of the oppression which had been alluded to, some intelligent Native gentlemen had come to him with a proposal for the enhancement of that tax for local purposes. MR. ELLIS thought that the general discontent spoken of must have been exaggerated; and he would add that those gentlemen who had urged that objection had failed to distinguish between the dissatisfaction caused by a high rate of tax and such discontent as was due to the tax itself. Those who opposed the tax for the most part admitted its suitability to the presidency towns and the large centres of commerce; he, on the other hand, would admit that, in some places, this tax was unsuitable. But granting that unsuitability, he would say that the evils complained of were such as were not beyond relief, and that the difficulties were such as were not irremediable: a great part of those evils arose from the minimum of assessment being too low, an evil which it was proposed to redress

now, and this alteration would give a large measure of relief to those peasant proprietors whose cause the Hon'ble Mr. Robinson had so feelingly advocated. In regard to the oppression on which the Hon'ble Mr. Inglis had so forcibly dwelt, we must look to a better administration for their redress; and he (MR. ELLIS) was persuaded that, if the Hon'ble Member and others who were so anxious to redress grievances would give their minds to the subject, it would be easy to devise remedies. He could remember traditions of a time when greater oppression was rife in regard to the collection of land-revenue in the Western Presidency, and he would appeal to any one who knew that Presidency now, and ask him whether any such general oppression existed at the present day. The extortion in the collection of the income-tax was due in a great measure to its being a new tax, and he was confident that, as the scope of it was better known, and as the officers of Government became more familiar with its working, they would be able to devise means to redress wrong and corruption, as had been done before in India. No substitute had been suggested whereby we might reach the wealthy men in the presidency towns, nor had those gentlemen who opposed the tax told us, except by a surmise that we had over-estimated our expenditure and under-estimated our proceeds, how we ought to meet the deficit of £600,000 which the income-tax proposed to cover. Until they did this, he must vote for the retention of the income-tax as a part of our fiscal system.

Passing to other criticisms, he observed that the Hon'ble Mr. Chapman had called for a declaration from the Hon'ble Sir Richard Temple as to what constituted a surplus. In regard to this, he was not going to say anything, as he might be heterodox in his opinions. It was a matter for the Finance Minister and not for him to deal with. But there were two items which the Hon'ble Member had mentioned, on which he wished to say a few words—the grant of £40,000 for the Indian Museum, and the grant of £200,000 for provincial services. Whatever might be the principle which should regulate surpluses, there could be no doubt that these grants were right and proper. The grant for the Museum might be briefly explained. Our position resembled very much that of a man who had given a draft, promising to pay a sum of money by a certain date. If, owing to misfortunes, he had got into embarrassed circumstances and was unable to fulfil his promise, he would be wrong and might be pitied. But if, on the date for payment, he had the money at his bankers, and if, then, owing to rules he laid down for himself, he said he must defer payment of the liability, we should call him nothing better

than a swindler. We were under an obligation to build the Museum by the 23rd of March instant, and owing to circumstances, we had been unable to give effect to that intention. But when we had a balance in hand from which, in the spirit, if not in the letter, the bond might be satisfied, he could not conceive any one hesitating at once to fulfil the obligation, and make over the money for the completion of the building.

Then, with regard to the twenty lákhs for provincial services, this question rested on grounds quite apart from the question as to what might be done with a surplus. The position was simply this. At the commencement of the year, we made certain provincial service assignments according to our means. As the year wore, we found that we could give £200,000 more, to be placed to the credit of these services, and this amount was given. Now it had been resolved that, in all future years, the sums devoted to provincial services should be at the disposal of the Local Governments, and should not lapse to the imperial revenues, but remain to the credit of those Governments, and the £200,000 would similarly remain to their credit. It was not for the expenses of the Imperial Government in this or any other year that this sum was set aside, but for expenditure on those services at the discretion of the Local Governments. MR. ELLIS contended, therefore, that, whatever might be the Hon'ble Sir Richard Temple's exposition of the general policy of the Government as regards surpluses, he was fully justified in dealing in this way with the amounts in question.

He would now proceed to consider, next, the very important subject which formed a prominent feature in the financial administration of the Government this year. He need hardly say that he referred to the scheme for enlarging the control of the Local Governments over their own finances. He had all his official life been an advocate for such enlargement, and he was glad to find that the scheme had met with so very little opposition, and that those who did oppose it had so very little to say against it. He thought that the objections taken to the scheme might be reduced to two. There was the objection, which would be serious if well founded, that the Local Governments were by this scheme forced heavily to tax the people subject to their control; and there was the objection, taken very freely by the Press in the presidency towns, and which had been repeated by His Honour the Lieutenant Governor, that the assignments upon which the allotments had been made were starved assignments, and less than had been hitherto enjoyed by the several Local Governments. Now,

he must beg the Council to bear with him whilst he gave a few figures which would show that these objections were not valid.

It would be in the recollection of the Council that the assignments were based on the estimates for the year 1870-71, and that a reduction of about seven per cent. had been made in the assignments to each of the Local Governments. He must take leave now to discuss separately the Civil Departments, as distinguished from the Public Works Department, and he would show from the figures that, as far as regards the Civil assignments, which formed the basis of settlement, there was no starving at all, but, on the contrary, that the Local Governments had received allotments based on very full and liberal allowances. Well, then, the assignments, after deducting receipts, were, for all India, under the heads of Education, Police, Registration, Gaols, Printing and Medical Services, £3,607,000. Now, as compared with the expenditure in the year just coming to an end, we found that, in this year, they would spend on those services £3,450,000. But, the objectors said that this year was one of starvation, and was therefore no criterion upon which to proceed, and they would refer to the allotments of other years. In answer to that, he would ask them to take the estimates of the year 1869-70, which were framed when we were in a state of financial prosperity, and when no doubt was entertained as to the healthy condition of our finances. In that year there was estimated for these provincial services only £3,443,000, and therefore, compared with what was considered sufficient when there was no doubt of our financial position, he thought the grant of 1870-71 most liberal. Compare it further with what had been assigned in the years when there was abundance and no check upon our administrative expenditure. When we compared the assignments on which the allotments to Local Governments were based, we found that it was £3,607,000, against an average on the actual expenditure of five years, from 1863-64 to 1868-69, of only £3,222,000. He thought, therefore, as regards the whole of India, we might assure the Local Governments that the basis of their assignments was ample and sufficient. But as the greatest complaints had been made in Bengal, Madras and Bombay, he must ask the Council to bear with him for a few minutes more, whilst he gave the figures for those three Local Governments. In Bengal, the figures were £941,500, against a budget-assignment, in 1869-70, of £919,000, and an average actual expenditure, from 1863 to 1869, of £822,000. There could be no reason for complaint there. In Madras, again, we had £574,000, against £546,000 in 1869-70, and an average of £525,000 in former years. In Bombay, there was an assignment of £673,500, against a budget-allotment, in 1869-70,

of £570,500, and an average of former years of £558,500. It would be understood that, from the assignments he had mentioned, a deduction of seven per cent. had been made, and even after that deduction, the allotments made would contrast not unfavourably, when compared with the budget-assignments of 1869-70, and would compare very favourably when contrasted with the average actual expenditure of former years, when there were no doubts of our financial position. He thought, therefore, that it would not be competent for any one, after the exposition of these figures, to say that, as far as regards the Civil assignments of the Local Governments, they had been based on starved assignments. Then, it might be asked, where was the reduction? He answered in two words—in the Public Works Department. And he thought that, after what the Council had heard from Colonel Strachey, no one could fail to be convinced but that a reduction was inevitable in the Public Works. He had told you that, in all Public Works Imperial, as well as those included in the assignments to the Local Governments, in all alike, there had been large reductions. Why were those reductions made? Because we had no more money to spare. Well, those who cavilled at the policy of the Government of India were most prone to reproach us for our extravagance in Public Works. It could not be urged now as a reproach that, in our allotments to Local Governments, we had been making retrenchments, for, as Colonel Strachey had shown, we had reduced all the Public Works grants. It must be borne in mind that, as we had not sufficient money to give to the Local Governments to carry out all the improvements they desired, they would, without any connection with this scheme of decentralization, have to devise means to get the money, or go without the works. It would be clear that the assignments for the civil portion of the provincial charges were sufficiently liberal, and that there could be no ground whatever for the imposition of additional taxation on account of these departments; it remained to be considered whether the contraction of the Public Works grant afforded such ground. He would beg the Council to bear in mind that, even if this scheme were not carried out, the money would not be available; moreover, he would have it borne in mind that all those Local Governments who had legislatures of their own had, for some time past, quite independently of this scheme of the Government of India, been devising means for raising money by local taxation. The Madras legislature had already passed two such Bills, which had been long pending before the local Council; and he would say, with regard to Madras, that he must confess that he was unable to receive the figures given to them by the Hon'ble Mr. Robinson, as representing new and local taxation in Madras. MR. ELLIS hesitated to question them, as he had not the Madras Bills

before him; but in the former discussions of the Madras legislature which he had read carefully, he could see no trace of that vast greed on the part of the Madras Government which his hon'ble friend had represented. On the contrary, those measures appeared to him to be most moderate. Under these two Bills, the amount that would be raised was within £300,000, and that amount, they were told, it was proposed to arrive at by degrees. He confessed that, until he saw the Bills themselves, he should hesitate to accept as correct the basis of the Hon'ble Mr. Robinson's calculations. Had he been asked to state which of the Local Governments would be the least likely to impose an improper burden on its people, he would say that it was the Madras Government. It was essentially a paternal Government, and it would be the very last to attempt to raise from the people anything more than they could be reasonably called upon to bear. Any how, these Bills had been commenced with long before the scheme for carrying out the system of provincial assignments had been started. In Bombay, also, as had been stated by the Hon'ble Mr. Chapman, Bills had been some time under consideration with a view to further taxation by municipalities in towns. Again, in Bengal, as every one was aware, correspondence had for a long time been going on as to the raising of further funds for Education and Roads; therefore, he said that these measures of taxation were independent of the scheme of the Government of India, and not in any way initiated and forced upon the Local Governments in consequence of that scheme. They were initiated and brought about by the feeling of the Local Governments that further improvement was required, and that the funds would not be forthcoming from imperial resources. He submitted that it had been shown that the allotments to the provincial Governments were sufficient, except in so far as related to the allotments for Public Works, and for these latter more could not be afforded. Therefore, he did say that there was nothing in the action of the Government of India to compel the Governments to impose upon the people a burden greater than they were able to bear. As regards the three Governments who had legislatures of their own, Bills had been introduced or were under consideration for some time past for the raising of funds for local improvements. As regards the North-Western Provinces and Oudh, Bills for this purpose were now before the Council, and it would be in the power of this Council carefully to consider those Bills, and not impose on the people of those provinces more taxation than was justified by a reasonable demand for improvement. In conclusion, he trusted that no difficulties would be thrown in the way of carrying out the so-called measure of decentralization, for he believed that it was calculated to increase the efficiency and economy of administration in India.

The Hon'ble MR. STEPHEN had not intended to trouble the Council with any observations upon the policy of an income-tax; but in the course of the debate, several observations had fallen from Hon'ble Members which appeared to him to call for some remarks upon his part. The first observation to which he would refer was made by His Honour the Lieutenant Governor of Bengal, and he referred to it, not only on account of the weight which must attach to every observation which fell from His Honour, but also on account of its great plausibility, and because it specially pointed to the Department of which MR. STEPHEN had the honour to be the head. His Honour observed that a reference of this Bill to a Select Committee with instructions to report in a week, was hardly consistent with a due regard to the public interest. MR. STEPHEN considered that a very serious charge, and he begged leave to remark that, as far as he could form a judgment upon the subject, it was not deserved. Of course, there were topics connected with the income-tax which you might discuss, not only for weeks, but for months, and it might be a question whether, at the end of those months, you would be in a better position than at the commencement. We all remembered

> "Others, apart, sat on a hill retired,
> In thoughts more elevate, and reasoned high
> Of Providence, Foreknowledge, Will and Fate—
> Fixed Fate, Free Will, Foreknowledge absolute,
> And found no end in wandering mazes lost."

The discussion on the income-tax which His Honour suggested might lead to similar results, and he hoped it might not be undertaken. On the other hand, if the Committee confined itself, as MR. STEPHEN thought it should, to the discussion of the changes proposed to be made in the Act of last year, it could perfectly well dispose of them in a week. The changes proposed were all mentioned by the Hon'ble Sir Richard Temple. They were eleven in number. The questions which His Honour wished us to discuss were questions of a very different kind. His Honour's conversation with the American gentleman to whom he had referred, had suggested to him that it would be a good plan to take an account of the whole value of the property of every man taxed under the Bill. Then you would estimate the permanent income that would probably accrue to him therefrom. Then you would put on one anna for one thing, and another anna for another, till at last you brought his income under a satisfactory assessment. After you had performed that operation, you would have to proceed to an enquiry as to the sources of his income, and when that was ascertained, you would be in a position to decide what proportion of his income was to be regarded as property

and what as income. This process would open out a wide field of discussion, especially when it was applied to a country under our rule containing a population of 150 millions This, however, was only the beginning of troubles. The next question would be how the principle of the distinction between property and income was to be adjusted to the circumstances of the different classes of the community. For instance in the cases of a barrister, a merchant and a civilian, how much of the income of each was to be regarded as property and how much as income, special reference being had to the fact that some portion of the covenanted officer's salary was in the nature of compensation for coming out to this country. If, having entered into all that, we were to go on to enquire from what point of view our Native fellow-subjects regarded the large incomes paid to officials in this country, and how far they thought it just to regard part of them as property and part as income, there was, no doubt, room for a great deal of enquiry, for which one week would be far too short a time. But over and above all this, an abstract principle had been laid down, which amounted to this—that no tax was just which did not impose equal sacrifices on those who paid it. That was a principle to which he (MR. STEPHEN) did not assent, and its discussion might take some time and end in a difference of opinion. Supposing it to be established, when you came to apply it practically, how were you to discover what was an equal sacrifice? How far could you say that a man, who paid five per cent. out of £5,000 a year, made the same sacrifice, as a man who paid five per cent. on £100 a year? How would you draw a comparison between an English barrister, an Indian ryot and a small zamíndár? These questions were as hopeless as those of free-will and fore-knowledge, and yet these were the questions on which His Honour suggested that the Committee should enquire and take evidence. MR. STEPHEN earnestly trusted that, amongst the duties he discharged in this country, he might never be called upon to preside at a Committee to enquire into such questions. He took a humbler view of the functions which this Council had to perform, and which were at present before them. The Bill contained eleven slight alterations of the existing law, which must be thoroughly discussed. With these questions it was quite possible to deal; but if we went into general principles, and the application of these principles to the circumstances in which we stood, we should be going very far out of our depth. Even if you confined the area of discussion to the project of adapting the English Income Tax Act to India, the difficulty would be enormous. It would be necessary to adapt to India schedules A, B, C and D of the English Income Tax Act, together with endless questions about exemptions, deductions, qualifications, returns and other things, and the result

would be that it would become absolutely necessary to inflict upon the whole community a most elaborate body of law and forms of the most intricate description. He could only say that the little finger of an Act of that kind would be thicker than the somewhat attenuated loins of the present Bill.

But passing from that, he came to the consideration of several other observations. The first of these fell from the Hon'ble Mr. Chapman. He criticised at length the expenditure on account of certain salaries paid to the officers of Government, and he asked a variety of questions, which MR. STEPHEN did not feel himself called upon in any way to answer, because they referred to branches of the revenue of which he had no particular knowledge. But he did allude to two or three matters to which MR. STEPHEN considered it his duty to refer. Mr. Chapman had observed, for one thing, that he considered his own services as an Additional Member of the Legislative Council to be not worth his salary. Speaking with some considerable knowledge of the subject, MR. STEPHEN would say that Mr. Chapman was by no means the best judge on that subject. He (MR. STEPHEN) had had the pleasure of being associated with the Hon'ble Member in this Council for many months past, and he was sure that the assistance which he had rendered in the improvement of the laws was of very great importance, and fully justified his presence in this Council. MR. STEPHEN thought it quite a mistake to suppose, as some Indian officers appeared to him to suppose, that, unless a man was kept very hard at work from early in the morning till late in the evening, he was not earning his salary. He would altogether deny the truth of such criticisms. It was absolutely necessary, in order that good laws should be made, that ample experience and advice should be provided for the assistance of those who were charged with the duty of making laws. His hon'ble friend and his colleagues might find during their presence at Calcutta that they were not kept quite as hard at work as they usually were. It appeared to him (MR. STEPHEN) that many Indian officials had a morbid appetite for hard work. He himself had not led an altogether idle life, but he thought it a mistake to consider that the time spent in advising on and preparing legislation was not adequately and properly employed, even if the legislators were not actually at work for the whole of every day.

With reference to Mr. Chapman's remark that to have in each department a Member of Council and a Secretary was a superfluous expense, MR. STEPHEN would only say that he felt some delicacy in answering such a criticism. Whether the Members of the Executive Council did their work properly or otherwise was a question on which he could give no opinion for obvious reasons;

but he could not understand how it could be seriously questioned that there was plenty of work for them to do. It appeared to him that no talents and no energy could be too great to discharge the duties of a Member of Council as they should be discharged. He would be the last man to depreciate the value of the services of the Secretaries to Government, whether in his own or in other departments; but there was ample work both for them and for the Members of Council who presided over the departments to which they were attached. Speaking for his own department, he felt perfectly certain that neither Mr. Stokes nor he would be able to undertake the duties of the other, in addition to his own, nor did he believe that any one man could discharge them all.

But there was one further remark to which he must refer more particularly. The Hon'ble Mr. Chapman spoke of the High Court Judges, and referred to the difference of the salaries which those officers received in the Presidencies of Bengal, Madras and Bombay, respectively. The way in which this difference was accounted for was, that the expense of living in Calcutta was greater than at the other presidency towns. Whether that was a fact, and whether it was so with regard to Bombay in particular, were questions upon which he could form no opinion. But this he could say with very considerable confidence, and from a long knowledge of English barristers, and the prospects held out by the judicial service at home, that he did not believe that, you could get the class of men you would wish to get as High Court Judges at lower salaries than those now paid to them. He believed that, at the present time, there were few men in England who would accept a High Court Judgeship, who would not remain in England for £1,500 a year. He said this from personal knowledge and experience in such matters; and this fact bore on the expense of the judicial service in this country. If you wanted a man who had more or less an independent position to leave home in middle life, you would have to pay him about three times as high a salary as he would take at home. This consideration bore strongly on the question of the employment of Native Judges. He thought it would be reasonable that a Native Judge of equal standing, rank and ability ought to be contented with a salary much lower than that which was paid to the European Judge, except, of course, in the case of a class of practitioners whose professional incom reached the European standard. A large part of the salaries paid to Europeans in this country, and in particular to European Judges, was in the nature of compensation for coming to an unhealthy climate, breaking off home associations

and family connexions, and keeping up at very great expense relations with England. It was absurd to pay a Native of the country for what he did not lose. It was like paying for Native goods the price which you had to pay for goods imported from Europe. The European article might be, and he believed that in the present case it was, worth the price paid for it, but to make its price the standard for an article produced on the spot appeared to him altogether absurd. He was not, of course, prepared to say what specific inference was to be drawn from these considerations; but the matter was not irrelevant to the budget.

In conclusion, he thought that it might interest the Hon'ble Messrs. Robinson, Inglis and Chapman to hear how some of the observations which they made regarding the income-tax struck persons who looked upon the subject without a special knowledge of India. We had heard a great deal about dissatisfaction; we had heard a great deal about unpopularity; we had heard a great deal about the hostility of the Press at Calcutta; we had heard a great deal about change, and the people not knowing what they would have to pay. The principal point which struck him was that what the people really disliked was to pay money. They did not like to pay, and it was very natural that they should not; he never heard of any human being who did, and he could well believe that the people specially disliked paying at $3\frac{1}{8}$ per cent. of their incomes. That they would dislike paying $1\frac{1}{4}$ per cent. appeared to him beyond a doubt, but that they would dislike it to the same degree appeared to him extremely improbable. For ten years they had actually paid this tax under different shapes, without any particular complaint, and as they complained when the rate was raised, he (MR. STEPHEN) believed that what they objected to was, not the tax, but the amount of it—the payment, and not the change of which Mr. Chapman had said so much.

[The Hon'ble MR. CHAPMAN said that his remarks were made with reference to local taxation. The Hon'ble MR. STEPHEN continued.]

He had no doubt that they disliked even that. Whether they paid under a local law passed by the Local Government, or under an imperial law passed by the Supreme Government, they had to pay, and that was what they disliked. He could fully understand that this was a tax extremely unpleasant to collect, and equally unpleasant to pay. He could fully appreciate the difficulties which every person had experienced who

had anything to do with the tax. But he could not conceal from himself the fact, that we were in a position in which it was absolutely impossible to take any step in any direction or to stand still without incurring great difficulties and considerable risk. If you said that change was so bad that you would have no change, you would come to a state of things in which you would feel the necessity of a change. If you said that you would remedy that state of things, then you would experience the inconvenience of changes. If you put on an income-tax, the collector would point out the difficulty of working it. If you put on some other tax, he would say the same thing. The main object to be aimed at was the general improvement of the government of the country, and he might be permitted to say that, the Civil Service appeared to have devoted themselves to this object with a degree of zeal, industry and success which called forth his admiration whenever he thought of it. The undertaking to which they had devoted their lives was one of the utmost difficulty, and the general result, brought about by arduous labour, continued now for upwards of a century, was one of which every Englishman should be proud. But that result was of necessity brought about by a continual series of delicate and dangerous experiments. This state of things was inseparable from the position of the British empire in India. The policy of the Government was not condemned by showing that it involved difficulty or even danger, for to suppose that the Government of this country would ever be free from difficulty or danger, was to suppose an impossibility. It was probably more obvious to a new comer than to an Englishman who had lived long in India that we were engaged in carrying out one of the most gigantic, one of the most delicate, and hitherto one of the most gloriously successful, enterprises that was ever undertaken in this world; and this should never be forgotten when any particular measure was criticized on the ground of the difficulties or dangers connected with its adoption.

The Hon'ble MR. STRACHEY said that, notwithstanding the length to which the debate had proceeded and the lateness of the hour, he was unwilling to give a silent vote on the Bill before the Council. There was only one point on which he desired to make a few observations. Regarding the general questions that were at issue, he thought it unnecessary to say anything. His hon'ble friend Mr. Inglis, in particular, had spoken in terms which, with all deference to his hon'ble friend, he must characterize as most extreme as regards the extortion and corruption which had been committed in the North-Western Provinces in the assessment and collection of the income-tax. He did not think that His Honour the Lieutenant Governor of the North-Western Prov-

inces would thank his hon'ble friend for that testimony. Speaking of India in general, Mr. Inglis said that he believed that, for every two millions which the people paid rightly to the tax, they were made to pay two millions more by bribery and corruption and oppression. MR. STRACHEY totally declined to believe anything of the sort. He disbelieved anything so extremely discreditable to the Local Governments, and he considered that he was entitled, from his personal knowledge of facts, to give to any such statement an absolute and unqualified contradiction. He did not for a moment intend to assert that no abuses had occurred. His hon'ble friend had spoken as if all our experience of the income-tax had been gained during the last year. But he would remind the Council, as had been already said, that in one shape or other, we had had an income-tax in this country for the last ten years; for the so-called license-tax and certificate-tax had been nothing but income-taxes, with this difference, that they did not apply to all classes of the community, and were levied at a lower rate. He happened to know, personally, a good deal about Mr. Wilson's Income Tax Act, which was imposed ten years ago, and which had been specially referred to by an Hon'ble Member. That tax, when it was first imposed, was levied at a rate of four per cent., instead of, as in the past year, at something over three per cent., and the limit of incomes liable to assessment was Rs. 200 a year, instead of Rs. 500. He would invite anybody to look at the reports regarding the working of the Income Tax Act of that time and its results. They were full of complaints of every kind as to the unsuitability of many of the provisions of the law; complaints, for example, of the complicated returns, which no human being (he could answer for himself) could understand, and of which, when filled up, ninety per cent. were absolutely worthless. But speaking generally, he could say, from his own knowledge and recollection of the facts, that the highest and best authorities on the subject, almost from one end of India to another, had declared their conviction that, however unsuitable an income-tax might be to India, and however great the defects of that particular law might have been, at any rate this was proved that the income-tax had been levied without any serious oppression, without serious dissatisfaction, and without any political danger. In those days, he was himself a Collector and Magistrate in one of the largest districts in the North-Western Provinces, and had personally had the duty of superintending, in all its details, the assessment and collection of the income-tax. Independently of what he saw and did himself, he was in a position in which, he could safely say, no man had better opportunities of seeing and hearing all that went on in the North-Western Provinces, in regard to the

management of the tax. He might add, he believed with truth, that probably no man ever used stronger language than he had himself used regarding the faults of that tax. But this he would assert very positively, from his own personal knowledge and experience, that if, in any district, the people were harassed and oppressed, and if extortion was practised upon them, it could only result from gross maladministration. He entirely denied that, if the local officers did their duty, these malpractices of which we heard so much could have occurred. He could not imagine that the administration in this country, and in the North-Western Provinces in particular, had so very lamentably degenerated of late years. He did not for a moment deny that abuses, and great abuses, might occur, and had occurred, in particular cases, in the administration of this law. What he denied was that these abuses had been the general rule. The difficulty, no doubt, of making assessments, had been great in some parts of India; in Bengal, in particular, the difficulty had been extreme. But he would repeat that, so far as Northern India was concerned, if any Collector or Commissioner told him that these abominations of which we had been told were going on as a common and universal practice, he had given the most complete evidence of his utter incapacity for performing his duties. It seemed to him that we had had ample and complete experience during the last ten years in regard to the operations of the Income Tax Act in India. The result of that experience was (as the Hon'ble Mr. Stephen had said) that when the rate of the tax was high, there was discontent; but when it was low, no difficulties occurred and no opposition was experienced. So long as the tax was low, we heard little or nothing of oppression or extortion or corruption. The truth was that, up to the present time, from the time when Mr. Wilson's tax was first imposed, no serious attempt had ever been made to bring into proper order the machinery for working this tax. We had always been dealing with it in a spasmodic kind of way; one year the limit had been at one rate, and one year at another. If our object had been to make the tax unpopular, we could not have gone to work in a better way. Judging from the experience of the last ten years, if the tax was kept at such a rate as now proposed and small incomes were left untouched, and if we took anything like the same pains in making our arrangements for the assessment and collection of the tax that we took for the assessment and collection of other branches of our revenue, he saw no reason whatever, considering what he might call the infinitesimal number of the people that this measure would affect, why it should not work well. He believed that, without any serious amount of trouble or unpopularity, this one per cent. tax, with good administration, would soon give us three quarters of a million or more a year, and that it

would place in the hands of the Government, against a time of great emergency, a most valuable resource. He might add that what was now proposed was virtually almost the same proposal as that originally made by Mr. Wilson in 1860. He proposed to impose a heavy income-tax for a term of years, but to retain one per cent. permanently: one difference between the proposal then made and the proposal of the Government now, was that it was then proposed to assign the one per cent. to the Local Governments for works of public improvement.

A good deal had been said as to making this tax permanent. Now, he was not aware that any body had said anything of the sort, or that the Government had declared any intention whatever of making this tax permanent. All that was really said was, that the Government had come .to the conclusion that it was desirable that the Act should continue in force until the legislature thought it desirable to repeal it. Nothing more in regard to this point was proposed by this Bill than was done by any of the dozens of Acts which were passed with no limitation of time as to their continuance. In spite of what he had said, he should be very glad if the time came when no such tax would be necessary. What the Government now virtually said was this, that so far as we could now foresee, we could not anticipate that, within another year or so, we should be able to dispense with this tax, and that, under ordinary circumstances, the tax should not exceed one per cent. It appeared to him that, by inserting no term at all, a better security was really given to the public against the increase of the rate hereafter, than if we were now to say that this tax of one per cent. was to hold good for the present year only. For, in its present form, the Bill was to some extent an assurance, that the Government had come to the conclusion that nothing but a really serious emergency could justify the imposition of an income-tax at a higher rate than one per cent. But it seemed to him that if we were to insert a term of one year, it would be as much as to say that we only wanted one per cent. this year; but that, at the end of the year, it would be a matter for consideration how much we should want the next year. It appeared to him visionary to suppose that we should be able to dispense with this tax at the end of this year. If our financial position should improve, he agreed with what had been said by other hon'ble members, that if we should be able to get rid of three quarters of a million of taxation, this wretched income-tax was not the thing we ought first to dispense with. He entirely agreed with the remarks which fell from the Hon'ble Mr. Bullen Smith regarding some of our Customs duties. He thought that it was nothing short of a disgrace to a civilized Government that such

duties as our export-duties on rice and other staples should continue to exist. Nothing but extreme financial difficulty could justify their maintenance at all. He also entirely agreed with what had been said regarding the sugar duties. He had no hesitation in saying that they were a standing discredit to our Government. We were not only levying a heavy tax, amounting to some ten per cent. *ad valorem*, on one of the greatest sources of our agricultural wealth in Northern India, but we were actually levying a duty on our own people for the benefit of the sugar-planters of the Mauritius, for those planters actually paid a smaller duty on the import of their sugar, when sent to this country, than our own people paid when they sent their sugar across our Inland Customs line. If we could afford a sacrifice of half a million, or three quarters of a million, we could abolish all export-duties and all inland-duties on sugar, and we could reform our import tariff also. He thought that, by good administration, all the more serious objections to the income-tax might be got rid of, and that, politically, the tax might be made a source, not of weakness, but of strength. He could not conceive how any one could doubt that the continuance of a light income-tax was a smaller evil than the continuance of such taxes as those of which he had been speaking.

His Excellency THE COMMANDER-IN-CHIEF said he should be sorry, by a silent vote on this question, to give the impression that he voted for this Bill merely because he was a member of the Government. He was formerly a member of the Government of India, when an income-tax was maintained; and he now voted for its continuance at the moderate rate to which it had been reduced, and was prepared to continue so to vote until some other tax was devised which would reach the rich Native mercantile class without leaving the European community untaxed. It was well known that the richer portion of the Native mercantile community escaped taxation.

Formerly, the European paid no taxes, except the import-duties on the articles for his use and consumption. When the Government were asked for money for the convenience or benefit of Europeans, the reply used to be,—"You come here for your own purposes! You receive your wages! You have no right to expect to have your wants supplied from the money which belongs to the people of India!" Afterwards, when Europeans paid income-tax, he was often glad to be able to claim for them the protection of the State—equally with our Native fellow-subjects—for the poorer Europeans, education for their children and places of worship. He was sure he only did justice to the European community in believing that they had no desire to avoid bearing a fair share of the burthens of the State. He believed their objection to the

income-tax proceeded from the belief that it hit them hard, as their incomes were more accessible, while the Native mercantile class escaped more easily, as their incomes were not so completely assessed.

With regard to the reductions in the Army, to which the Hon'ble Mr. Chapman alluded, it was true that the late Commander-in-Chief recommended extensive reductions, which had not all been carried out; yet, at the same time, he gave a solemn warning against reducing the Military Force of the country by another European soldier.

It was not permitted to him to enter into details of what the proposals for reduction were, but they went very far beyond what the Hon'ble Member indicated. It was vain to say that the addition of a portion of men to each of the remaining batteries was any sufficient compensation for the loss of complete batteries.

In the case of the reduction which had been carried out, the loss of thirty guns was a very serious loss of power; and as regards the men, though it was intended to divide a portion of them among the remaining batteries, they themselves did not consent to it, but went home bodily with their batteries.

It was only justice to the Government of India to say that he had protested, in the strongest manner, against any further reduction. It had been his duty to say that he considered reduction to have been carried to the verge of safety, and this opinion had been confirmed by his observations during his recent tour of inspection.

With reference to the question of barracks, a few words were due in behalf of the British soldier. Last year, the subject of barracks was much discussed in this Council. The term "palatial barracks" was invented, and he feared the British soldier got into the bad graces of the tax-payer as the pampered dweller in palaces.

Now, what was the fact? The Government of India, after the mutiny, found that they had a largely increased European army almost unhoused, and it came to the determination to borrow the money necessary to house it properly, and to give the reasonable comforts and amusements necessary to render the soldier's life in India desirable. He believed that few of the members of this Council were in the way of becoming acquainted with the medical statistics of the Army. It was well known that, in places subject to malaria, if you slept at an elevation of eighteen or twenty feet from the ground, you might escape

the effects of malaria. In Calcutta, you had a proof of it. The mortality of the European soldiers in Fort William was formerly nine and a half per cent. per annum. By building the Dalhousie Barracks, Lord Dalhousie reduced the mortality by two and a half per cent., or seven per cent.; and if you reckoned for a thousand men, the saving of life was seventy men per annum, or seven hundred men in ten years. The very experienced Inspector General, Dr. Murray, in advocating double-storied barracks, said that it did not much matter where the men slept for nine months in the year; but in the remaining months of the unhealthy season they were liable to contract, from sleeping near the ground, fevers which rendered them, for the future, practically useless as soldiers.

He considered that the Government had good grounds for the construction of double-storied barracks, and for borrowing the money to build them. But it was decided by an authority which he was bound to respect, that the money spent from loans should be taken from revenue; and this measure was, he believed, the cause of the inconvenience which ensued.

There might have been room for improvement in the manner of construction, but this was in course of adoption; and he had no doubt the barracks that might be completed would fully justify the expectations of those who advocated their construction.

Arrangements were under contemplation to place several regiments in the Hills, where their accommodation would be less expensive; and he was content with the resolution to build the double-storied barracks only in such places where climatic influences rendered them necessary.

The Hon'ble SIR RICHARD TEMPLE said—"MY LORD,—At this late period of the debate I shall not enlarge on the general topic, but shall confine myself to replying to the adverse criticism which has proceeded from several Hon'ble Members sitting on the President's left.

I begin with the speech of my hon'ble friend Mr. W. R. Robinson. He says that I have under-estimated the Revenue and over-estimated the Expenditure in several respects. Had it not been for this, he thinks that the necessity for retaining the income-tax might have been avoided; and what are the instances he adduces? Why, the Land Revenue, which he observes is less by a large sum than the sum realized in 1869-70; the Excise; and the Customs, of which the present estimates do not allow sufficiently for the prosperity of the time. Now, as regards the Land Revenue, my hon'ble friend seems to have overlooked the fact that in 1869-70 there was an extraordinary receipt (duly

explained by me to this Council at the time), namely, the accumulated proceeds of the sale of waste lands, which windfall will not recur; therefore the favorable result of that year cannot be estimated for in subsequent years, and the apparent difference is thus fully accounted for. As to Excise, the amount I have now taken is almost as high a figure as has ever been realized in the most prosperous year; and if Burma be excluded (where there has been a special falling off), the figure for British India is actually the highest ever estimated. As to Customs, I have to repeat (what was explained in my general exposition) that we fear that the apparently prosperous figure of the current year may partly arise from over-importation; that the present profits of the trade are less than what might have been justly expected; and that therefore any further prosperity cannot confidently be reckoned on at present. I may add that in our belief the estimates for all these heads of revenue have been taken *full*, quite as full as the estimates received from the local authorities would warrant, and I must decline to accept the irresponsible advice of my hon'ble friend to take them any higher.

On the expenditure side my hon'ble friend instances the increases on Land Revenue, in Forest, in Opium, in Salt. Now, does he really mean to say that these charges could be reduced beneficially? Hardly so, when he remembers that I explained in my general exposition that these increases were all needed to produce a direct fiscal return. But he says he has searched in vain for a proof of the increased return on the Revenue side. I cannot understand this, inasmuch as he will find specific increases taken under each of these very heads! The same remark too applies to excise in British India (Burma being excluded). Further, my hon'ble friend says he cannot understand the increases under Stamps and Stationery and Administration. Why, if he will refer to my exposition he will see that these instances are specifically accounted for by transfers of account.

Here again I must decline to accept advice which really means that I should take the estimates more favorably than they are taken, a course wholly inconsistent with prudence in finance. The estimates are taken prudently, and not at all too unfavourably, and my hon'ble friend must look the necessity in the face, for I cannot evade it by attempting to improve the estimates.

Mr. Robinson then drew a moving picture of the national demoralization caused by the income-tax in the Madras Presidency, with which he is specially acquainted; and even dwelt on the wide-spread discontent caused thereby among the landholding classes. But what are the facts? Why, in the

Madras Presidency, with a population of nearly thirty millions, the income-tax for 1870-71 amounted to £245,000 with 55,000 or 60,000 tax-payers; in 1871-72 it will amount to £69,000 with 27,000 or 30,000 tax-payers. How is it possible that from so small a cause such universal demoralization can arise? Some mischief may, indeed must, arise; but that it extends to all classes in the manner described by my hon'ble friend, I do not believe. Further, how can it reach the landholding classes in the manner supposed? At the most, it cannot affect more than a very few thousands out of many millions of agriculturists. Moreover, the oft-repeated argument that the tax reaches, from its uncertainty, more than it was meant to reach, cannot apply at all to agriculturists, for they are assessed to this tax on fixed and certain data furnished by the village records. I do not deny that some evils exist; but I do say that my hon'ble friend's description of them must in some respects be greatly overdrawn.

Again, Mr. Robinson says that by the relief afforded we have only slightly narrowed the field for oppression! Now, what have we actually done? We have exempted for 1871-72 just one-half of the total number of those who pay the tax in 1870-71. Surely this is a large measure of relief, and to style it a slight narrowing of the limit, is to give a meagre and inadequate description.

Then Mr. Robinson gave us a long account of the local taxation recently imposed in the Madras Presidency, which he makes out will amount to between ⅓ and ½ a million annually. But what has all this got to do with the Imperial Budget and with the Income Tax Bill now before this Council? Surely my hon'ble friend cannot suppose that we, the Government of India, have at all forced the Government of Madras to impose this taxation. In the first place, those local taxes had been devised and placed before the local legislature some time last year, long before the present budget had been thought of. In the second place, the utmost sum which this budget would compel Madras to raise locally amounts to only £55,000. To that extent we are responsible. Whatever the Madras Government may raise beyond that, it will raise in its own discretion,—a discretion which I am sure will be exercised moderately and properly. If then my hon'ble friend's description of the expansion of local taxation in Madras be meant at all to prejudice the policy of the Imperial Budget, I must remark that it is irrelevant to the question at issue.

I was surprised to hear Mr. Robinson use such words as that the Government of India stands pledged to abolish the income-tax as soon as possible, and that the intention to do this is to be inferred from the action of Government. It were perhaps superfluous to point to the well-known fact that no such pledge has ever been declared or recorded. On the contrary, in our Financial

Statements we have always guarded ourselves against giving any such pledge. And as to any such inference being drawn from our past proceedings, I say that our proceedings point to a directly contrary inference; for on the establishment of our existing financial system the first thing which Government did was to impose an income-tax for five years. When the period had expired, not a year was suffered to elapse before a fresh project for a similar tax was set on foot, and was shortly afterwards carried out; and since that time we have never been without an income-tax in one shape or other.

Lastly, Mr. Robinson regrets that I should have inferred from the fact of the Local Government reporting the absence of complaints that no cause of complaint existed. But in reality I drew no such inference. On the contrary, I expressly guarded myself against drawing any such inference. I stated that such cause must doubtless have to some extent arisen, notwithstanding the absence of official reports.

I next advert to the speech of the Hon'ble Mr. Cowie. He regrets that I *can* suggest nothing save an income-tax. Now, as to whether I *can* suggest, or not, I may observe that to make such suggestions might be easy enough. Instead of a moderate income-tax like that now before the Council, I *could*, if it were deemed fit, suggest many things, but they would all be open to objection; for instance, a marriage-tax, which might touch somewhat too closely the domestic affairs of the people; a tobacco monopoly, which might affect the garden culture of every ryot; an increase of the salt duty in Bengal which would tax still further the highly taxed luxuries of the poor; additional customs duties, which might unduly affect trade; a succession duty, which would be open to some of the objections of an income-tax without its productiveness. Such things have been proposed and might have to be carried out in certain emergencies; and, as far as possibility goes, I *could* suggest them, but I had rather not do so. I, for one, distinctly prefer the alternative of a light income-tax, such as that now before the Council. Then my hon'ble friend, objecting to the tax being made permanent, says it is one for an emergency, and not for time of peace. In the first place, we have never said it was to be permanent; we have merely refrained from proposing any limit of duration. But, further, it seems to me to be mere assumption when the tax is said to be one, not for time of peace, but only for emergency. I am not aware of any such doctrine; certainly it is not so held in England, where for now a quarter of a century the tax has existed, although for the greater part of that period the country has been at peace, and not in a state of emergency. Most other civilized countries have kept up direct taxation in times of peace I know

no reason whatever why India should form an exception to the rule which prevails in so many other countries.

Then my hon'ble friend objects to our retaining such large cash balances and to our borrowing any additional sums during the coming year. As this subject has been adverted to by other Hon'ble Members, I will now say what there is to be said hereon. In my exposition it was shown that the cash balances are very high now, not only because we have improved our ordinary finance, but also because less has been spent than was expected on Public Works Extraordinary including State Railways and on guaranteed Railways. It hence follows that we have in hand much money belonging to the Public Works Department and to the Railway Department, for the payment of which sooner or later we are liable. Well, *if* the Public Works Department were to expend in the coming year all it proposes to spend on the extraordinary loan works, we should clearly want nearly all the money which has been or is to be raised. Also, *if* we were obliged to set ourselves square with the Railway capital account, that is if we had to make advances in this country for construction of the lines, fully up to the amount of capital which has been raised in England, we should need all the cash balance that could possibly be spared. Besides these manifest liabilities, any broad view of all the circumstances of our finance would show that we have many contingent liabilities. Again, in the present state of the exchanges, my hon'ble friend must surely know that the less is drawn from us by the Secretary of State's drafts, the better; inasmuch as the loss by exchange (a direct charge against our revenues) would be thereby kept down. The 2½ millions intended to be raised by loan by the Secretary of State during the coming year might represent so much less of drawings, and this difference might save us expense, more or less, according to circumstances. At present, the Secretary of State's cash balance is doubtless no more than what is required. If, as the year wears on, it were to be found to be high, I presume that this could be considered when the loans of the following year come to be determined. The Secretary of State has, of course, the best possible means of judging the times and conditions of raising loans in London. That judgment is exercised in the financial interest of India. Here in India we try to keep our balances at such sums as may fully suffice for all requirements. We have not indeed always been able to do this. Just now we fortunately are so able. The amount is higher indeed than it used to be in former years. But it would not hence follow that this is relatively higher now than it used to be, for our disbursements have of late grown vastly, and are still growing. The matter is one of discretion to a large degree, and on consideration of *all* our requirements and liabilities for the coming year, I beg to assure the Council that the present amount of cash balances is not otherwise than satisfactory.

I next proceed to the speech of the Hon'ble Mr. Inglis. Adverting to the statistical fact that the income-tax, at the most never touched more than 1 in 300 of the population (it will now touch only 1 in 600 by the Bill before the Council), he says that of the remaining 299, at least one-half are subjected to illegal extortion on account of the tax, and that if 2 millions are collected from all India on account of the tax, at least an equal amount in addition is collected in the shape of bribes. Perhaps my hon'ble friend hardly bore in memory that half of the 299 would represent half of the 150 millions of population or 75 millions. So my hon'ble friend seems to make an assertion which, if reduced to figures, would mean that on account of this tax 2 millions of bribes are extorted from 75 millions of people! I cannot persuade myself that my hon'ble friend really means to adduce any such imaginary statistics. The assertion he makes is one of the most general character, not borne out by even the reports received from that part of India where he has served, and unsupported in its extreme sense by any particle of proof which he adduces. I quite share the belief that in this matter of income-tax, as in every matter of administration where the Natives of India are concerned, the evils which Mr. Inglis justly characterizes as extortion, oppression, and bribery, do unfortunately prevail. The question is really one of degree; and I believe that the assertions hazarded by my hon'ble friend are instances of the manner in which the general objections incidental to Indian administration are pressed with particular exaggeration against a tax which, affecting all classes alike down to a certain limit, is, to that extent, inevitably distasteful to those who have to pay it. But admitting, as I, for one, do admit, that these evils do accompany the tax, to a certain degree, though not to the extreme degree supposed by my hon'ble friend—what then? What are we to do? Are we, for *that* reason, to give up the measure? I say no. For if these reasons prevail, the state of society in India is, alas, such that we should have to give up many other useful and necessary things. Despite all our efforts, the extortion, oppression, and bribery, described by Mr. Inglis, do to a certain degree (though not to any extreme degree) exist in the land settlement operations, in the canal administration, in the police, in the courts of justice—in many things in short. Are we *therefore* to give up settling the land-revenue, to give up irrigation, to give up administering the law, to give up protecting property, and so on? Of course we are not. But neither are we *therefore* to give up direct taxation.

Further, many of my hon'ble friend's objections would be applicable to all kinds of direct taxation. Nevertheless he and those who think with him are always bringing forward schemes for taxing in this way by license taxes the

very classes who are exempted from the income-tax. Why, the persons who are to be exempted by the Bill now before the Council will be all caught in the net of my hon'ble friend's license-tax. True, the license-tax is rough and easy, divided into three grades; but so was the income-tax rough and easy, for *these* classes. Remember, I am not objecting to the license-tax at all; I only say that I cannot understand the consistency of those who advocate a license-tax, which for the lower classes is only a little better than our income-tax,—while they denounce our income-tax in unmeasured terms.

My hon'ble friend concluded by declaring that I might avoid the necessity for imposing the income-tax by transferring the necessary amount from the cash balances, or by deducting the required sum from the assignments made under the new system for the provincial services. I heard this with surprise. What can he mean by suggesting that a portion of the cash balances should be transferred to the coming year's income? Surely he is aware that our imperial accounts show as receipts only the sums received in the year. To so exhibit sums which were *not* received in the year (as the present cash balances would not be) would be to make up our accounts contrary to fact! It would be showing (in order to ensure a certain result) sums as income of the year, which were not the income of the year. Again, what can he mean by suggesting that we deduct from the assignments for provincial services the £600,000 (expected yield of income-tax)? Does he think the various Local Governments could possibly undertake the services after such a deduction? Would not the Local Government of the province where my hon'ble friend is serving be the foremost in protesting against such a deduction? He must see, on reflection, that to suggest this is simply to suggest what would never be carried out by the local authorities under the existing circumstances of the country.

I must now advert to the speech of the Hon'ble Mr. Cockerell. He says that an income-tax ought not to be added to the resources of the country at a time of great financial prosperity. In the first place I fail to see the evidence of any such great financial prosperity. On the contrary we have had deficits much too often: and we have difficulty in ensuring a permanent surplus of income over ordinary expenditure. But to put my hon'ble friend's proposition in a milder form, is there anything in our fiscal condition which would justify us in dispensing with a just and reasonable resource like the income-tax? I say that there is not. On the contrary we sorely need such a resource, not only to help in securing a certain equilibrium, but also to aid us in providing against losses under uncertain heads like Opium, and to give us at least some chance of remedying defects in our fiscal system, like the export duty on Rice, the inland duty on Sugar, the high duty on some kinds of Salt, and so on.

Then my hon'ble friend reproaches me with poverty of invention, and says that I come before the country with no fresh device. Well, as to that, the scheme of local finance produced this year *is* a fresh device; at least it is a change and a novelty, and that too of a very considerable description. I can only regret that it does not seem to wear the aspect of freshness in my hon'ble friend's eyes. But if it is not a fresh device, I do not know what is. As to poverty of invention, I must give my hon'ble friend the same answer as that which has just been given to Mr. Cowie. I could easily invent plans of reduction of expense, but they could not (as my hon'ble friend must well know) be carried under the existing circumstances of the country. I could also invent new taxes easily enough; but I prefer to keep out of that line of invention and to avoid that dangerous field for ingenuity. I prefer to tread on the less objectionable ground of a moderate income-tax.

Lastly, my hon'ble friend says that the introduction of this income-tax measure is a breach of good faith. This is a serious charge to bring against the Government of India. And does he say anything by way of proof? Absolutely not one word. He merely adduces the argument that the public have been under the impression that the tax was to be only temporary. I neither affirm nor deny the impression. But I say that this is a most flimsy and evanescent ground on which to charge a Government with breach of faith. And if this sort of argument were valid, it might equally be urged by any hon'ble member against any measure he might happen to dislike.

I now turn to the Hon'ble Mr. F. S. Chapman's speech. Having had to differ so much with the Hon'ble Members who preceded him, I am glad to acknowledge the support he accords us by remarking that the present reduced income-tax affords all the relief that could reasonably be expected; that it is consistent with sound policy; and that there are other taxes which ought to be remitted before the income-tax, as now modified, ought to be again touched.

But my hon'ble friend offers other criticism to which I must reply. He objects to the Opium estimates as having been too low. Well, this is a point into which I entered fully in my general exposition; and if what I then said regarding the fluctuations of price, the uncertainties of season, the competition in China, failed to convince my hon'ble friend as to the need of the caution we exercised,—why, nothing that I can now say will convince him, so I will not trouble the Council with further remarks hereon.

Mr. Chapman desires explanation on certain points which I am happy to furnish. He asks—How are the payments of £200,000 to the Local Governments

for a commencement of the new scheme and the £60,000 to the Trustees of the Indian Museum, to be reconciled with the principle that the charges of each year are to be exhibited in the year, and that the surplus of one year is not to be carried on as an asset of the succeeding year? I must observe that both these payments did pertain to and were made in the year 1870-71, in which they have been charged. The £200,000 has been paid as absolutely to the Local Governments as if they had been paid to a Corporation or to a Company. It was peculiarly just to allow them this amount as they had made the savings on their grants to this amount within the year. It was necessary to pay the sum this year, if it was to be paid at all; inasmuch as we could afford it now, and would not be able to afford it in the coming year 1871-72. The payment to the Trustees of the Museum was made by reason of an obligation imposed by *law*, which fell finally due on the 23rd of March within the year 1870-71. Both these payments then are made in strict accordance with our principles of finance and account.

Then my hon'ble friend asks, why, if the loan, 2½ millions, to be raised in England be connected with the unfavorable state of the exchanges, the whole of the 9 millions required for the expenditure in England, should not be obtained by borrowing in that country, instead of selling drafts on the Treasury in India? This question is hardly one which admits of a precise answer. Supposing that the state of the exchanges is one of several reasons for the raising of that loan, I must observe that it would not at all follow that the same reason would apply to the larger sum of 9 millions to be borrowed in England according to my hon'ble friend's idea, instead of being remitted from India. To do that would be to cause great derangement in the exchanges, in the money market, in the value of public securities, and in many other ways.

My hon'ble friend next observes that the Local Funds of the Bombay Presidency amount to near a million sterling. This must include the income of the Bombay City, inasmuch as the Local Funds proper of the Presidency do not much exceed £600,000. However, let us take the total at a million. Then, with what object does my hon'ble friend adduce the fact? Apparently to shew that the Presidency has too much local taxation. But what proportion does this million bear to the resources of Bombay? Why, it only represents 10 per cent. of the total revenues of the Presidency, 10 millions sterling, with a trade of 50 millions annual value, with a cotton export of 1¼ million of bales annually, with a population on the whole the richest or the best off in all British India.

My hon'ble friend observes that there is half a million of charges under Marine, and wonders what the country receives for this money. In the first place, we have large receipts under Marine, some of which are really revenue, such as pilotage payments and port dues, amounting in all to close on a quarter of a million. So that the net charge amounts to only one quarter of a million. And for this, the country does receive something; there is a squadron of the Royal Navy guarding the Eastern Seas; there are some vessels of the Marine; there are six ports, some of them large, with pilot services and other establishments (other than those of the Port Trusts); and there are two dockyards.

Then my hon'ble friend considers that searching enquiry ought to be made into all Civil expenditure. But does he remember that there has often been such enquiry? For instance, the labours of Sir Henry Ricketts embodied in several large volumes: the records of the Civil Finance Commissions; the revisions made from time to time by every Local Government with or without the instance of the Government of India. Further, he quotes a passage from the speech of Sir W. Mansfield in last year's debate regarding the amalgamation of various separate Departments of Military Administration, and he asks what is being done. I cannot say more than that the matter has not been overlooked, but has been more than once considered by the Government of India.

Lastly, my hon'ble friend considers that the expenditure in England ought to be controlled by the Government of India, no expenditure being incurred in that country without its sanction. Now, inasmuch as the Secretary of State exercises financial power under an Act of Parliament, there can be no practical use whatever in discussing the question. The extent to which the Government of India is responsible for the English expenditure has been explained in my general exposition.

I must now turn to the speech of the Hon'ble Mr. Bullen Smith. He objects to my having mentioned that in reply to a Circular the Local Governments for the most part stated that no specific cases of income-tax oppression had been reported. Since I heard his remarks, I have again referred to those replies, and I find that they bear out my statement. As already said, I expressly guarded against the inference that no such cases had occurred, and I acknowledged that no doubt there were such cases. My hon'ble friend goes on to say that to ignore the existence of such complaints would be to show want of sympathy with the people. But I did not and do not ignore this. On the contrary, I declared that we had been much impressed with what we had heard on this score. And as a proof of sympathy, far better than any declama-

tion, we have proposed to exempt half the whole number of tax-payers! But as my hon'ble friend seems rather to press the sympathy argument, I shall retort that the object of our financial policy has been to avoid increasing the burdens of the mass of the people, and to rather adjust the weight to the shoulders of the comparatively well-to-do classes. Whereas our opponents, deprecating our mode of adjustment, rather suggest expedients, such as increased salt tax, a marriage tax, and the like, which would really fall upon the masses. Therefore when my hon'ble friend urges wide and hearty sympathy with the people, I at once rejoin that our policy fulfils this just and essential condition far more than the policy of our opponents.

My hon'ble friend adverts to the Rice duties, a subject which he thinks I dismissed too briefly in my exposition. Well, I was obliged to be brief, having so very many topics to deal with. Still I did give what is the real gist of the argument, for I said that we bore the subject in mind; but as the trade was improving, as the yield of the duties was on the increase, and as we could not spare the money, we did not propose a change at present. If I were to dilate now on the argument, still the substance would be what I have just given. I may add that last year 1869-70, we received some £296,000, this year 1870-71 we are receiving £356,000. If this progress were to be at all sustained, we should soon approach the highest yield which the duty has ever reached in prosperous years, namely, £408,000. I hold here a paper which shows that in the first eight months of the current year 1870-71 the export has amounted to eight millions of cwts.; whereas in the corresponding period of last year it amounted to only five millions. The exportation has not been so much in the direction of China and Japan (as we expected it would be) but rather in the direction of Europe.

My hon'ble friend,—after justly acknowledging that our export duties, with the one exception of Grain, are but little, Jute (fibres) being exempt, and Indigo being very slightly taxed,—asks on what principle Grain was selected for duty, and remarks that unless we recognise fiscal principles in this matter, he, and those who think with him, will withhold confidence in our finance. Now I say, that—excepting faults and defects from which in one way or other no system will ever be free—our fiscal system *does* follow general principles, and that it is for the sake of these very principles that we have frequently encountered opposition and obloquy. Further, I say all this particularly in regard to the branches regarding which my hon'ble friend is so well informed. For our import tariff (as was once declared in this Council by my predecessor, Mr. Massey,) will compare favorably with the tariff of any country in the world; and our export duties, excepting Grain, are almost *nil.*

diture on the net *available* revenue, that is, net revenue minus the first charges for interest and pensions was, in 1861-62, 13·01, in 1868-69, 20·71.

I concur so much with what has fallen from my hon'ble colleagues, General Norman, Mr. Stephen, Mr. Strachey, and His Lordship the Commander-in-Chief, that I need not advert further to their speeches.

Before concluding, however, I shall touch on a memorial from the British Indian Association, which has just been put into my hands. The memorial contains many things on which I cannot now stop to enter. But there are two points in it which I cannot pass over. The Association recommends that we should appropriate a part (two millions) of our cash balances of 1870-71 as receipts or income for 1871-72, and by this accession of resource, stave off the necessity of imposing an income-tax! This is to my apprehension the real meaning reduced to plain words. I must say that to do this would be to do that which would be contrary to fact, opposed to financial principle, impossible under the system of national account, and subversive of public credit. There would be all these objections even if the cash balances were all our own. But are they all our own? Hardly so. For they consist partly of deposits belonging to various parties and interests, such as the Local Funds, the Civil and Military Funds, the Judicial and Administrative Departments, the Railway Department, and others.

The other point is this. The Association say in effect, as I understand them, that in this Budget we remit income-tax with the one hand while we impose local taxation with the other—a process which will not much benefit the people of India. I cannot acknowledge the justness of any such view. What are the facts? We remit on the one hand upwards of £1,475,000 of income-tax. We cause the Local Governments to impose local taxation at the very outside to an amount of £330,000, which will probably dwindle down actually to £130,000. In the one case the balance in favor of the people would be £1,120,000, in the other case £1,320,000. In the face of this, it cannot be correctly said that the Budget fails to benefit largely the people of India.

And now, my Lord, I must conclude what is perhaps a very controversial speech. If my rejoinders have been made with some degree of stringency, I hope that Hon'ble Members will be good enough to forgive me, remembering that I have been replying to strictures made from the opposite side, and that the questions at issue are urgent."

His Excellency the President said,—"It was my intention to express my views on this very important matter which has been discussed today, and out of respect to my colleagues to have offered some observations to the Council on the

debate that has taken place; but I am sure the Council will see that, after the discussion has lasted seven hours, it would be unfair to myself, and equally unfair to my wearied colleagues, if I proceeded to say what I am most desirous of saying with regard to the general financial condition of the country, and of the proposals of the Government.

I therefore hope that I may be permitted to postpone to a future stage of the Bill the remarks I have to make.

With regard to the request made by my hon'ble friend, Mr. Cowie, that I should authorise some suspension of the Rule which would enable him to move two amendments in the clauses of this Bill, I have to say that I would be glad to comply with the Hon'ble Member's wishes; but there is no Rule which I could suspend that would enable him to effect his object.

The proceeding which we are engaged in today, is the discussion of a measure on its principle, and, as a whole, in fact, it partakes of the nature of a discussion on the second reading of a Bill in Parliament.

It is therefore quite impossible for me to suspend any Rule which would enable an Hon'ble Member, consistently with the general course of business in this Council, to move an amendment on a particular clause such as my hon'ble friend, Mr. Cowie, proposes.

The clear intention of the Rules which govern our procedure in these cases is, that we should discuss fully the principles of the measure at this stage, and that we should not consider or attempt to amend its details until the Bill has been thoroughly discussed in Committee.

There is only one remark which I wish to make, because it may influence votes, and that is, with regard to what Mr. Bullen Smith said in reference to the term and the permanency of this measure.

The question, whether or not it would be desirable to put any term to the operation of the Bill, was very carefully considered.

We decided that it was better not to limit its operation to any particular term; but, in doing so, we wished it distinctly to be understood that that did not prejudge or indicate any foregone opinion on our part as to the permanency of the measure.

Last year, we proposed the income-tax at a high rate, for a specific but temporary purpose.

The country was in great financial difficulty, and we considered that the course we took was the only means at our disposal for extricating the Empire

from those difficulties. We distinctly stated that the income-tax of last year was therefore to be considered as a temporary measure, adopted for a special purpose. It has done its work, and the circumstances of the case are now wholly changed.

We do not propose an income-tax this year as a relief for any immediate or passing financial difficulty, but, on the other hand, we do not offer any opinion as to whether it ought or ought not to be continued as a permanent part of our fiscal system.

All I can say is, that I think the Government and this Council ought to have an opportunity of fully considering the claims for relief of those other interests which must be considered as competing with the income-tax in regard to the reduction of burden.

If happily, next year, the financial position of the country enables us to consider a further reduction of taxation, it will then be our duty to consider calmly and fairly those interests which have been referred to today, and it will be for us to decide whether we shall recommend the continuance of the income-tax, or the reduction of other burdens, for instance, the export-duties, or the transport-duty on sugar which is levied on our own Customs line.

All we have done is to leave the matter perfectly open, to be dealt with next year as circumstances may require.

I have made these remarks, because, from what has fallen from my hon'ble friend, Mr. Bullen Smith, it may be conceived that the Government entertain a fixed opinion that, under any circumstances, the income-tax should be retained as a permanent portion of our fiscal system."

The following Select Committees were named:—

On the Bill to provide for the survey of steam vessels in the Port of Rangoon—The Hon'ble Messrs. Stephen and Cockerell, and the Mover.

On the Bill for imposing duties on income—The Hon'ble Messrs. Stephen, Chapman, Bullen Smith, Cockerell, Inglis, Cowie and Robinson, and the Mover.

The Council adjourned to Saturday, the 18th March 1871.

CALCUTTA,
The 17th March 1871.

WHITLEY STOKES,
Secy. to the Govt. of India.

Office of Supdt. Govt. Printing.—No. 9179 L. C.—29-3-71.—240.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Government House on Saturday, the 18th March 1871.

PRESENT:

His Excellency the Viceroy and Governor General of India, K. P., G. M. S. I., *presiding.*

His Honour the Lieutenant Governor of Bengal.

The Hon'ble John Strachey.

The Hon'ble Sir Richard Temple, K. C. S. I.

The Hon'ble J. Fitzjames Stephen, Q. C.

The Hon'ble B. H. Ellis.

Major-General the Hon'ble H. W. Norman, C. B.

Colonel the Hon'ble R. Strachey, C. S. I.

The Hon'ble F. S. Chapman.

The Hon'ble J. R. Bullen Smith.

The Hon'ble F. R. Cockerell.

The Hon'ble J. F. D. Inglis.

The Hon'ble D. Cowie.

The Hon'ble W. Robinson, C. S. I.

LOCAL RATES (OUDH) BILL.

His Excellency THE PRESIDENT said—"Before we proceed, I wish to make a statement with regard to the progress of business in this Council, because there seems to be a little misapprehension on the part of the public as to the time and period at which the various objections to the Bill now under consideration must be taken.

I wish, in the first instance, to repeat a statement made by my Hon'ble colleague, Mr. Stephen, when leave was asked to introduce an Income Tax Bill. The Hon'ble gentleman then said that the Bill would be introduced into the Council on the 17th, and would, on that day, be referred to a Select Committee.

The only deviation from the ordinary practice has been that, in order to place the public at the earliest possible moment in possession of the details of the measure, the Bill was printed at once, and has been published for some days.

My Hon'ble friend further stated that the Committee would probably present their Report on the 24th. The Council will then be in a position to take the Report into consideration and pass the Bill on the 31st.

I make this statement in order to show that, on this occasion, we have thought it desirable to assign a longer time than is usual for the passing of a Tax Bill by this Legislative Council.

The result will be, that the proposals of the Government and the actual details and features of the Bill will have been in the hands of the public for nearly a month from the time of its introduction.

With regard to the other Bills which affect the great question of local taxation, I propose that we should pass the Bill relating to the levy of rates on land in Oudh during our stay in Calcutta.

It appears that the principle of that Bill has been fully discussed in the Province to which it refers. We have had the advantage of a personal conference with the Chief Commissioner on the subject, and he, before he came to Calcutta, had ascertained that the leading Proprietors and Taluqdárs in Oudh were, on the whole, favourable to the Bill. I therefore think it would be most to the public advantage that that Bill should be proceeded with and passed during our stay in Calcutta—the last stage of the Bill being probably taken up about the 31st of this month. With regard to the next two Bills, namely, for imposing a duty on certain trades and dealings in the North-West Provinces and Oudh, and also as to the levying of rates on land in the North-West Provinces, called the "North-West Provinces Local Rates Bill," I wish to state that, on consideration, I think the most convenient course with regard to the Bill would be to take, as is proposed, a stage today, refer it to a Select Committee, receive the Report of the Select Committee while we are here, and to hold, for the purpose of further discussion and for the passing of the last stage of the Bill, a meeting of this Council at Allahabad about the middle of the ensuing month. I think this will give time for the fullest consideration of the important question involved. The principles of the Bill will thus be discussed and determined on in the capital of the Province to which it relates; the Lieutenant Governor of the Province, in his official capacity, will be a Member of the Legislative Council meeting at Allahabad; the public and the officers of the Province will have more time and fuller opportunities of considering in detail all its important provisions. On the whole, the result will be more satisfactory than if we took the last stage at Calcutta, and I think that any observations or criticisms will be best made, and any assistance we may hope to derive from local knowledge and local experience

will be best afforded, by holding a meeting of the Legislative Council within the limits of the Province to which this Bill applies.

With regard to the Panjáb Bill, I have only to state that no further proceedings will be taken with reference to that measure until the Legislative Council meets within that Province, and I hope that we shall have at Simla, as in the case of the North-Western Provinces, the advantage of the presence of the Lieutenant Governor in Council during the discussion upon a Bill which so materially affects the interests of the Panjáb."

The Hon'ble MR. STRACHEY introduced the Bill to provide for the levy of rates on land in Oudh, and moved that it be referred to a Select Committee with instructions to report in a week. He had very little to add to what had been already stated as to the reasons for the introduction of the measure. When he had asked leave to introduce it, he endeavoured to state the reasons which rendered it necessary to give to the Local Government in Oudh power to raise a moderate sum by local taxation with the object of supplementing the imperial grants for provincial purposes, and of providing funds for carrying out the necessary local improvements which were stopped for want of the necessary funds. The sum required to be raised in Oudh, as he before stated, was £30,000. He had already endeavoured to explain the reasons which had led the Local Government and the Government of India to the conclusion that there was no way so easy and so unobjectionable for raising this money as by imposing a light rate on land. It would be identical in its nature with the cesses which had been levied for similar purposes for many years past for roads, schools, &c.

The measure was first prepared, as the Council would see from the published correspondence, and proposed, by Mr. Davies, when he was Chief Commissioner of Oudh, and before he went to the Panjáb as Lieutenant Governor.

It was prepared by him in conjunction with General Barrow, who was then Financial Commissioner and who had since become Chief Commissioner of the Province.

Besides, as His Excellency had just stated, having had the advantage of discussing the matter personally with the new Chief Commissioner in Calcutta, Mr. Davies, had also before he left Oudh, taken the opportunity of considering the whole question with the principal representatives of the Taluqdárs and proprietors of the Province, and he was happy to say they had given the measure their entire approval.

Thus the Bill came before the Council recommended by an amount of local authority which he thought could hardly be stronger, and with the authority and consent, not only of the Local Government and its officers, but of the very people themselves who would be most affected by the measure.

It was true that the rate to be imposed on the landholders was certainly small, but nevertheless, the Taluqdárs of Oudh had not the less given a very creditable example of their public spirit and enlightenment; and he thought that this action on their part was the more valuable for this reason, that no one had accused them of any subserviency to the officers of Government, or any want of independence in looking after their interests.

MR. STRACHEY had stated on a former occasion all that it was necessary to state with regard to the reasons for raising this money from the land which could so well afford to pay it, and in a manner consonant with the feelings of the people, in preference to raising it by any other means.

It was proposed, also, to take power, if it should be found necessary, to supplement these funds hereafter, by extending to Oudh the license-tax on certain sections of the non-agricultural community, the Bill for the imposition of which his Hon'ble friend Mr. Inglis would introduce. This Bill had been before the Council and the public for some time now, and the whole correspondence which had taken place with the Local Government on the subject had been published. The Bill was a very simple one. It proposed—to quote the Statement of Objects and Reasons—

'to impose a rate not exceeding one and a quarter per cent. on the annual value of the land. The rate will be payable by the landlord, but where there are co-sharers, under-proprietors, or tenants with rights of occupancy, who intercept a portion of the annual value of the land, he will be entitled to recover from such persons a share in the rate, bearing the same proportion to the whole rate as the landlord's share in the profits of the land bears to the share of the subordinate holder."

Section nine of the Bill provided that not less than seventy-five per cent. of the total amount of the rates levied in any district should be expended in that district on works of public utility. The purposes for which this seventy-five per cent. of the rates might be expended, were clearly defined in section nine of the Bill: they were, the construction and maintenance of roads, the construction and repair of hospitals, dispensaries, lunatic asylums, markets, wells and tanks, and other local works of public utility.

Section eleven of the Bill had for its object to provide that the most complete publicity—which, after all, was the greatest security against any abuse

occurring—should be given to the accounts, which should show exactly the way in which the whole of the money was expended and the benefits that had been derived from such expenditure. The object of this provision was that every possible security should be given for ensuring that the proceeds of the rate should be really expended for the benefit of the people who paid the rate. He thought he need not make any more observations until after we had had the advantage of having the Bill thoroughly examined by a Select Committee.

Section twelve of the Bill provided for the appointment, in every district, of local committees to assist in the supervision and control of the expenditure of the rates levied under the Act. It was provided that not less than one-half of the members of the committee should be persons not in the service of Government.

His Honour the LIEUTENANT GOVERNOR had not been able to find time to study the provisions of this Bill, and he would therefore reserve for the Bill relating to the North-Western Provinces, which he had read, some general remarks which he might have occasion to make on certain points in which that Bill corresponded with the Bill now before the Council. With respect to this Bill, he trusted he might be allowed to make one remark for the consideration of the Committee to which the Bill would be referred, respecting a very small proportion of the money which was to be levied under the Bill, but which would, nevertheless, affect the majority of the rate-payers. He alluded to the provision which would enable the zamíndár to recover from the occupancy-ryots one and a quarter per cent. upon the profit margin of their rentals. He was quite ready to admit that this provision was strictly just; but he would ask the Council to consider whether it would be worth while to impose a rate on so large a number of the people for such a trifling sum as the rate on these ryots would amount to. The occupancy-ryots in Oudh were a limited class, who, on certain accounts, had certain privileges conferred upon them; and certainly a very moderate reduction had been made in their favour from the regular rent, to put them in a favourable position. Now, by this Bill, the zamíndárs would have a right to levy one and a quarter per cent. on the occupancy-ryot's profit of twelve and a half per cent. HIS HONOUR had always thought that our English education was very defective in the matter of arithmetic, and he very much doubted whether any Hon'ble Member could make out what one and a quarter per cent. of twelve and a half per cent. would amount to; but, at any rate, it would be a very small fraction indeed. Therefore, as the amount which the zamíndárs would be entitled to deduct from their occupancy-ryots' profit would be so very small, he thought that it would not be worth while to permit such a deduction to be made.

The Hon'ble MR. ELLIS said that, after the detailed exposition of the objects of this Bill that had been given by the Hon'ble Mr. Strachey, he need do little more than express his entire concurrence in all that had fallen from his hon'ble friend. But he would say a few words on what he considered to be the main principles of the Bill, or on what he should wish to consider the main features of every Bill for local taxation. These two main features were, the assistance to be derived from the co-operation of local committees, and the restriction of the expenditure of the proceeds of the rate to the district from which the tax was raised. He considered that, if we were to render local taxation anything more than a mere empty name; if we were to carry with us the people, who were naturally reluctant, as all people were, to make payments of any kind and in any form; if we were to carry with us, he would not say their active sympathy, but such a spirit of contentment as we all desired, we must carefully bear in mind these two principles of local taxation. He was glad, therefore, that it had been provided in this Bill, that at least seventy-five per cent. of the amount raised from a district should be expended in works of local improvement in that district. He did not desire to hamper the Executive Government by limiting the area within which the funds raised should be expended; but still, if we looked to the size of the provinces for which we legislated, and more especially to the extent of the North-Western Provinces, for which a similar Bill was about to be introduced, he considered that it would be most mischievous if we were not to place some limit on the area within which the proceeds of the rate should be expended. It would be impossible for the tax-payer at Benares to understand why the taxation was called local, when the funds raised at Benares were expended in the distant district of Agra. It therefore seemed to him that it should be an essential feature in all these Bills, that there should be a limit of area for the expenditure of the amount which it was proposed to raise. He questioned whether we should not even place greater restrictions than the Bill proposed—whether more than seventy-five per cent. ought not to be expended on works of local improvement within the district; but that was a question of detail, which might be considered in Committee. If we considered that a very large amount of revenue had been placed at the disposal of each Provincial Government for expenditure in their respective Provinces, we might assume that the additional funds which it would be necessary to raise by local taxation would in each case bear a small proportion to the whole Fund, so that all the proceeds of the local taxes might well be expended in the districts wherein they were raised. It would not, he conceived, be fettering the action of the Local Governments if we were to say to them—'as you have ample funds at your disposal for every object entrusted to your administration, and as you are empowered to expend those funds in

any district or in any manner you think fit, you must see that, in each district and in each year, not less than the amount raised in a district is expended in that district.' And when we looked at the wide scope of objects included in the ninth section of the Bill, he thought we might be sure that the Local Governments would suffer no inconvenience in being compelled to expend in each district, if a reasonable area were fixed, the funds raised from that district.

Then, as to the other principle which he considered an essential feature of this and the other Bills of a similar nature that were before the Council. He was not one of those who despised the assistance to be derived from the co-operation of the inhabitants. He might affirm this belief notwithstanding what had been said by some district officers. He believed that there was not a district in India in which you might not find some men who were competent to afford valuable assistance to district officers as to the best mode of administering these local funds. The material for the formation of local committees might, in some districts, be better, and in others worse; still, on careful enquiry, he believed that there was hardly a district in which you could not secure the assistance of a certain number of Native gentlemen who were fully competent to give aid, and by whose co-operation the administration of these funds might be rendered more efficient.

The Hon'ble MR. STEPHEN had only one word to say in reference to what had fallen from His Honour the Lieutenant Governor. As he read this Bill, he did not understand that anything which could not otherwise be got from under-tenants could be obtained under the operation of this Bill. As to the difficulty of numerical adjustment which was referred to, he thought that the man who was going to recover would take the trouble to work out the sum.

His Excellency THE PRESIDENT said,—"As this is the first opportunity I have had of offering any opinion in public on the most important subject which is comprised in this Bill, I wish first to express my great satisfaction that it has fallen to my lot to preside over a Government which has been able to carry into effect a principle that has for some years been adopted and recommended by many of the wisest and most experienced of Indian Statesmen. I feel convinced that, when the principle involved in this Bill—which is identical with that laid down in the Financial Resolution of the 14th December last—becomes more fully understood, it will become more widely appreciated; and I firmly believe hat, of all the changes that have lately been made in the financial or administrative branches of our Government, the change which is now proposed by these Bills in regard to the Provinces of Oudh and the North-West is perhaps the most

important, and will have as many good and practical results as any measure that this Legislative Council has passed since it first came into existence.

"If the Council will recollect the great principles which are involved in these Bills, namely, that we, the members of the Supreme Government, endeavour thereby to associate with ourselves the responsibility and assistance of the men who, throughout India, may be supposed to possess the best information and the greatest experience on the affairs with which they deal—if we also recollect that, involved in the measures is an attempt further to develop, gradually and more fully, those numerous efforts that have been made to establish Municipal institutions throughout the land—if we recollect that the fiscal object of the measure is to import into our imperial finance a greater amount of certainty than has hitherto prevailed—if we recollect that, if the scheme works as well as we believe it will work, those future charges that must, at no very distant time, fall upon the country, will be borne and administered by those who are the best judges of their suitability, necessity, and propriety—when we recollect all these considerations, and when we find, on further reflection, that these principles are to a great extent new in Indian Administration, then I think we may come to the conclusion that the object is good, that the change will be great, and that it will not be the fault of this Council and the Executive Government if complete success is not attained.

"The evils with which we propose to deal were well described in the first paragraph of the Financial Resolution of December 14th.

"We said that, so far as effective supervision and control over certain heads of our expenditure is concerned, the Supreme Government had, for some time, felt itself to be in an unsatisfactory position. Control, and severe control, was exercised, but it was exercised, frequently in doubt, and almost always in uncertainty.

"Now, it may be said that such a confession as this, coming from the head of a Government, is a confession of weakness. It may be so to some extent, but the system was unavoidable in the earlier days of our Rule, and though this control has been exercised under the disadvantages to which I have referred, I am not prepared to say that, on the whole, any very great evil or public scandal has often occurred. But still it was a blot in our system, and the time is come to remedy it. Every change and every proposed change is to a certain extent a confession of former weakness, because if a system is perfect and strong, it would be folly to change it. The taunts, therefore, which have been thrown out as to this confession of administrative weakness on the part of the Government of

India, would apply to any change that has ever been made or attempted by any administration, as much as it does to the present.

"I do not propose now to discuss the various modes in which it has been proposed to carry out these principles. They are many and various. If our plan does not go to the full extent that some may have desired it to go, it is because we have been obliged, not only to consider what it was right to do, but also what it was possible to do; and if, perhaps, our measure does not attain the larger dimensions of many of those that have been suggested, it has at all events this recommendation, that it is practicable and safe, and that it has been accepted, if not with enthusiasm, at all events with general approval, by the Governments which it most concerns. However, I think I ought to state my opinion that I am not favourable to some of the very large proposals, the adoption of which would lead to the entire disarrangement of that system of administration which has long been pursued by the Government of India with signal success, and that I am not in favour of admitting other authorities than that of the Supreme Government to share in the administration of imperial revenue and expenditure.

"I think it safer to affirm that, as hitherto, imperial revenue must be managed by the supreme authority. At some future time it may be thought desirable to apportion certain heads of revenue to local authority, reducing proportionately their grants; but I do firmly believe that, if on the present occasion we had suggested anything of the kind, the result would have been failure, and it is certain that Her Majesty's Government would very properly have required a much longer time than they have taken to consider a change of so extensive and fundamental a nature.

"It would be wasting the time of the Council were I to discuss the various objections that exist to the larger measures to which I have referred; suffice it to say that it can be shown that, for the present, all the main objects that have been generally desired will be attained by the present measure, and that, without any dangerous interference with our general financial system, without weakening or straining our national credit, without imperilling a single important branch of imperial revenue, or rendering it less difficult than it was before to fulfil all our national engagements of finance, defence, and administration, we shall be able to attain to almost all the desired ends, and achieve everything that is really beneficial. We selected then, at once, for our operations those heads of expenditure the local character of which cannot be doubted—those heads concerning which so much has been said, namely, Civil Buildings, Roads, Education, Jails, Police, Registration, Medical Services, and Printing.

I am not prepared to say that there may not be other branches of administration which it might be judicious hereafter to deal with in the same way. I give no opinion on the subject. There are considerable and weighty objections with regard to some; but for all practical purposes—that is to say, if our intention and desire is to give to the Local Governments substantial power over the administration of the matters which in the highest degree affect the particular interests of their Governments and of their people—we have done all that for the present is necessary.

"Our expenditure may be divided practically into three great heads. There is the expenditure which may be taken in the way of fixed charges, over the amount of which neither the Governor General in Council nor the Secretary of State has any control; those permanent charges in the payment of which the faith, honour and credit of the country are involved, such as the discharge of interest, guaranteed or otherwise; the payments of allowances under treaties and obligations; the greater portion of our superannuation charges; a considerable portion of the charges which are paid in England, over which the Secretary of State has really no control; and other imperative payments. I will not trouble the Council with figures, but this may be considered as one head, and a very large head. Then there are other heads, with which the imperial authority (that is, the authority of the Supreme Government and of the Governor General in Council) can only satisfactorily deal. These charges may be put down as the Army, the vast expenditure which is going on on Railways; Irrigation; Military Works; the administration of the Post Office; Telegraphs; a portion of the cost of Law and Justice; and, probably, the expenditure connected with the collection of revenue under its various heads.

"These are the principal branches of expenditure that the Supreme Government will always find it most to the advantage of the empire to keep almost entirely in its own hands. There may be some other heads of expenditure, such as a portion of "Law and Justice," concerning which there may be some doubt as to whether they may properly be localized.

"It may then be always borne in mind that there are three great heads of expenditure, namely, Fixed, Imperial, and Local. In the future consideration of this question, it will much tend to a right conclusion if these three great distinctions are kept constantly in view.

"Then, under the *eight* heads, it is proposed to entrust administration under a few general conditions to Provincial Governments, and that a fixed contribution will be made from imperial revenue every year. I shall have something

to say hereafter as to the amount of that contribution. It is intended by the Supreme Government (and I think that there should be no doubt on this point) that that sum should for some time, at all events, be a fixed sum. It is impossible to prophesy or say at present what can be done in the far future, but I should be misleading the Local Governments if I were not to say that it is our opinion that these sums are now fixed at an amount which cannot be exceeded for at least a number of years. I think it desirable that this should be perfectly understood, because one of our objects is the attainment of as great an amount of financial certainty as is possible. We believe that, in justice to other public claims which are certain hereafter to be made on imperial revenue, in view of increased charges for the payment of interest and other objects, we cannot without recourse to large additional imperial taxation increase this sum as now fixed to any very considerable amount. We know that, if it is necessary, the sums which have been hitherto allotted for this purpose can be increased by local taxation in a manner much less burdensome and much less offensive to the people than they could be by imperial taxation. If it is necessary or desirable to spend money, that money must come from some source. It is possible that the wants of the Local Governments may increase, and I dare say they will; but if they do, we believe, after the most mature consideration, that these wants can better be supplied within the limits of the provinces themselves, than they can be by adding to the imperial taxation of the empire and the general burdens of the people.

"But in addition to the increased power of administration which it is proposed to give to the Local Governments, an administrative change will take place, which, I think, they will be able to exercise with advantage. They will have a large sum to devote to local objects, the power of allotment will be left absolutely to them, and they will be able to vary their grants for Roads, Civil Buildings, Education, and other heads, from year to year, as they may think most desirable. In some provinces it may be desirable in one year to spend a larger sum on Roads; in others, it may be desirable to fill up some shortcomings with regard to Education or other objects: the Local Governments will thus be able to exercise that power of allotment with much greater satisfaction to themselves and the public than they did under the old system, when they were obliged to consult the Supreme Government, not only as to the allotments that were made in the beginning of the year, but also with regard to any appropriations that were thought desirable within the year, provided those appropriations exceeded a certain amount.

"But there is also another considerable advantage that this change will bring, and that is with regard to the savings from one year to another.

"It has always seemed to me rather hard, particularly in the case of public works, that because, either from accidents, the weather or any other cause, a Local Government did not spend the whole of its allotment during the year, this sum was returned into the Imperial Treasury, and it then became a matter of further consideration how far this sum ought to form a portion of the allotment for the ensuing year.

"It is not surprising, therefore, that this system led to extravagance. I have observed, notably in the Department of Public Works, that there has been a marked tendency to rapid expenditure towards the end of the financial year, and I greatly suspect that it was frequently occasioned by a desire to expend in a hurried manner rather than not spend at all. This was an evil, and has led to waste of money. I believe that the Local Governments will find that, in this matter of their savings, they will be glad to have it in their power leisurely and properly to consider the precise time in which the money can best be expended, and by this means to exercise considerable economy in almost all branches of their expenditure.

"I have heard it stated that, by the proposals which we make, there may arise a separation of interests as between the Local and Supreme Governments. I fail to perceive any strength whatever in this assertion. I believe that, so far from there being a separation of interests, the increased feeling of responsibility and the feeling of confidence which is reposed in them will unite and bind together the Supreme and Local Governments to a greater extent than before.

"I cannot think that, because we say to them, "We entrust you with greater power, we give you greater influence, we refuse to meddle with you as hitherto," therefore their interests can be in any way separated from ours.

"We really do nothing more than effect a re-adjustment of labour and a more equal division of responsibility, and I cannot think that a body of men who associate with themselves another body of men belonging to the same race, having the same interests, and united for the same objects, can be separated by increased co-operation and more equal responsibility. I have often observed that the same result is obtained whenever these experiments have been tried, and that, though it may be wise in the earlier periods of an administration to centralise responsibility, still, the more you extend its basis when you find people are willing to take it, the more you strengthen the Government, and the more you contribute to success and economy in administration.

"The same principles which guide the conduct of both Supreme and Local Governments will still operate, namely, care, economy, expedition in work, energy, and incorruptibility; and in addition to these, which have always been the leading features of English administration in India, we supply the strongest of all motives, namely, the motive of self-interest; and by recommending the adoption of a budget-system and public discussion, we create checks against extravagance and encouragement to care which have never existed before.

"I know that some have expressed a want of confidence in the Local Governments as to the exercise of this power by them, and that it has been said that provincial administration will become more uncertain and that expenditure may perchance be regulated more by the personal feelings and idiosyncracies of one or two members of each Government, than by fixed and certain principles.

"I own that I have no sympathy with such gloomy anticipations. I cannot see why the heads of a Local Government, having precisely the same objects in view, should not have exactly the same inducements to carry them out under the new system as they had under the old. Of course, the circumstances of Presidencies and Provinces will change, and the mode of administration therein will, probably to a great extent, change also. But I do believe that we shall see, in place of greater uncertainty, greater certainty; we shall see works and objects carried out with more vigour, enthusiasm, and with less hesitation, when these works and these objects are effected under the immediate responsibility of those who are most interested in them.

"It has also been said that, by this system, the Supreme Government sacrifice some useful control—control which it might be found necessary to exercise hereafter, in order to prevent the occurrence of evils.

"Now, I say that, if at any future time in any province or in any part of India, great public evils are found to exist; if scandals, if waste of public money, if extravagance, if misappropriation, are discovered, I maintain that the control of the Supreme Government, and Her Majesty's Government, the Secretary of State, is quite as powerful to remove the causes of any great public evils of that kind as it has been and is at this moment. I do not for a moment anticipate the possibility of such misfortunes. They have been hitherto unknown. I see nothing in this plan which renders their occurrence more possible than before.

"So much, then, for the general features of this measure, which I hope will commend itself to the general approval of the Council and the public.

"I wish, however, to say a very few words upon an important point, which has been a good deal discussed in this Council.

"It has been broadly asserted, with as much audacity as inaccuracy, that the whole object of the Supreme Government in proposing these measures has been the increase of taxation.

"Now, I think that the figures that were given, and the statements that were made, by my Hon'ble friend, Mr. Ellis, yesterday, will go far to refute that assertion.

"The truth is, that the whole policy and the whole object of this Government, ever since I have been connected with it, has been the speedy *decrease*, and not the *increase*, of taxation. Temporary burdens were imposed in 1869-70 for a temporary purpose, and at the earliest possible moment they have been removed. I have no hesitation in saying that I should look with the greatest apprehension on any general and sudden addition to the burdens of the people of this country, and therefore, when it is said that the policy of this Government has been merely to increase taxation for the purpose of more lavish and more extravagant expenditure, a statement is made which is as far removed from the truth, and from the facts and events that have occurred, as any statement that ever was made since public discussion came into existence.

"Take this particular matter—what has been the immediate effect of the measures of the Government with regard to taxation?

"I find, in reference to the past history of the income-tax, concerning which so much has been said, that the figures stand thus: In 1868-69, we levied £508,700; in 1869-70, we levied £1,110,224; in 1870-71, the regular estimate shows that we shall levy £2,180,000; while, in 1871-72, we shall only levy £600,000. This is a reduction of taxation over last year of nearly *one million and a half*, and over the preceding year, of more than *half a million*, under one item alone.

"Since 1861, assessed taxes—that is, income-tax and other cognate burdens—have been levied, during *nine* years, and the amount we propose to take in 1871-72 is the lowest that during that period has ever been raised under this head, except in the year 1868-69, when it amounted to £508,000; so that, if any one will take the trouble of going over the years during which assessed taxes have been levied in India, they will find that the amount we propose to raise during the ensuing year is far below the rates which have been levied in all former years, excepting one.

"I wish further to point out how the particular proposals of the Government with regard to local taxation will really affect the Local Governments during the ensuing year, and how fallacious and inaccurate is the statement that the measures of the Government have the tendency to lay largely increased burdens on the people.

"I have requested the Financial Department to furnish me with the sum which each Government will have to make up during the present year, counting the additional grant of £200,000; and I find that this bugbear which has been raised as to increased taxation caused by the action of the Supreme Government, has really no existence whatever. I beg the Council's attention to these few facts, which will show exactly how much taxation has really been levied.

"In Oudh, the income-tax which has been remitted amounts to £42,700, and, the sum to be made up to supply provincial services in the ensuing year is £6,158.

"In the Central Provinces, the income-tax which has been remitted is £44,900, and the sum to be made up is £7,559.

"In Bengal, the income-tax which has been remitted amounts to £487,800, and the sum to be provided in the ensuing year is £34,912.

"In the North-West, the income-tax which has been remitted is £235,000, and the sum to be made up is £18,507.

"In the Panjáb, the income-tax remitted is £106,800, and the sum we ask in the ensuing year is £15,410.

"In Madras, the amount of income-tax remitted is £176,000, and the sum required to be made up in the ensuing year is £21,927.

"In Bombay, the amount of income-tax remitted is £298,000, or nearly £300,000, and the sum asked to be made up is £26,265.

"So that, so far as the action of the Supreme Government goes, the public of India will be relieved of income-tax during the ensuing year to the extent of £1,500,000, and the sum they will be asked to contribute as provincial revenue in consequence will only be £131,000. This disposes, in a few words, of the extraordinary allegations that have been made, that the policy of this Government is to increase the burdens of the people for the purpose of launching the country into an era of extravagance and waste.

"With regard to this particular Bill, which affects only the Province of Oudh, I have heard with the greatest possible satisfaction, not only from official

reports, but also by personal communication with the Chief Commissioner, that when this proposal was first made to the large body of extensive land proprietors which exists in that province, they were inclined to consider it favourably, and that, as far as the Chief Commissioner could judge, the feeling of the whole body of Taluqdárs in Oudh was not in the least degree hostile to the measure. It was explained to them that this additional burden which they are called upon to bear could not be expended in any other way than for the improvement of their estates, and to increase their own revenues.

"To the high estimation in which they hold the Chief Commissioner, the affection with which they regard him, and the influence which he exercises over them, is due the readiness with which they at once accepted his statement without question, and the willingness with which they adopted his suggestion. I can only hope that such confidence on the part of a large Native proprietary in India will, at no very distant date, be amply repaid, and that they will, before many years have passed away, see for themselves that this expenditure, to which they have signified their assent, will be laid out in no other manner than that which will contribute to the improvement and the value of their estates, the welfare of their people, and the general prosperity of their province. In this matter, the Oudh Taluqdárs have set an example to the influential classes of this country which ought not to be forgotten. They have willingly undertaken this charge; they know that it will be levied for their good, and their good alone; and I can only say that, if the many other equally influential classes throughout this country would follow in the same course, it would contribute very much to the success of those measures which are only designed for their improvement, and bring about results which must largely contribute to the welfare and prosperity of India.

"There are in this Bill two clauses to which I wish particularly to refer, because they furnish the most substantial evidence of the desires which actuate the Government in proposing those measures. The ninth clause of the Bill points out the objects to which, and to which alone, these funds will be assigned.

"They will be assigned only to those objects and to those purposes which the country most requires, and which every other province in this empire is largely in need of. These purposes are—

1. The construction, repair and maintenance of roads and communications;

2. The construction and repair of school-houses, the maintenance and inspection of schools, and the training of teachers;

3. The construction and repair of hospitals, dispensaries, lunatic asylums, markets, wells and tanks; the payment of all charges connected with the purposes for which such buildings or works have been constructed, and any other local works and undertakings of public utility likely to promote the public health, comfort or convenience.

"The clause further goes on to say that the assignment for these purposes shall not be less, and may be more, than seventy-five per cent. on the whole of the new charge that is to be levied.

"Now, I think that if people will consider these few words that are embodied in this clause, they will find at once a clue to the objects and desires of the Government in the proposals that we make. We seek to relieve ourselves of no responsibility at the expense of the country; we only endeavour to give the provinces the power to supply their own wants, and to contribute to objects indispensable to the welfare of their country.

"But there is another clause in this Bill which contains an important principle. It is that which renders it imperative upon the Local Governments to appoint, in every district in this empire, local committees for the purpose of carrying out the objects of this Bill.

"I am not prepared to say what may be the result of these committees. I am no optimist in the matter; but I know that there are large and important districts, numerous and rich, from one end of this country to another, from the most southern part of Madras to the gates of Peshawur, wherein there are men of sufficient ability and intelligence who are willing to assist their rulers in carrying out these objects.

"I would rather appoint a committee that never met, than have no committee at all. It will meet and act some day. What we want is to recognise the principle that we wish to associate with ourselves, wherever it is possible, the Natives of the country for these excellent objects, and I believe the recognition of this principle in an Act of the Legislative Council will be found to act in a manner conducive to that end.

"Many district officers of all ranks have told me that they have had little or no difficulty in dealing with the local committees with which they were connected. Others have informed me that they have derived from them the greatest possible advantage.

"Now, I believe that, if the necessity for these committees is recognised throughout the country; if our officers will associate themselves with the Natives in the cause of improvement, it will be found that this course will be attended with a success which few can possibly at this moment anticipate. Much has already been done, and these local bodies are already in existence in many parts of India.

"I had the pleasure, in a short address which it was my happiness to deliver at the dinner which was given to Sir Donald McLeod on his retirement from the Lieutenant Governorship of the Panjáb, of being able to state that, during his tenure of office, he had been able to establish within the province of the Panjáb nearly one hundred municipal committees. Considering that the Panjáb is one of the youngest of our Indian provinces, I think that that is a fact which must be most gratifying to all those who take an interest in the matter; and I believe that the success which attended Sir Donald McLeod's efforts in establishing these committees will also attend the efforts of every officer who endeavours to give effect to the provisions of the twelfth clause of this Bill.

"There are other matters connected with this measure with which I shall not at present take up the time of the Council. I will conclude by repeating the opinion with which I began, namely, that though this is a change, a very great alteration in the system of Government which has hitherto prevailed in India, I have no apprehension or no fear for its perfect and complete success. I know it will be worked throughout the length and breadth of this land by as able and as zealous a body of men as serve any Government in the world.

"I know from personal observation that the principles involved in this measure are in accordance with the feelings and wishes of the great majority of the services; and that the working of the system will be entrusted to a body comprising much talent, energy, experience and perfect and complete incorruptibility. I cannot therefore but feel sure that no result will attend it other than complete success.

"To sum up, then, the objects of these measures in a few words.

"Administratively, the Government desire by them to relieve itself of a large portion of unnecessary work, and of duties which can be better otherwise discharged; it hopes to make over to the Local Governments the determination as to the mode in which the wants of the people, in respect to the protection of life and property, of education, the construction of necessary communications, and health, can be best provided for; we think that it must in the end tend to the

thorough development of municipal institutions and of local self-government; and we further think that a great improvement in the relations of the Supreme and Local Governments will be effected. So far for administration.

"Financially, we think that the national credit will be strengthened by fixing imperial liability with regard to the most variable and uncertain charges of our expenditure. We trust that, for the present at all events, the burdens of the people will be but very slightly increased, for we know that the sums which will be available for provincial services in the ensuing year will be scarcely less than what has been granted on an average during the last few years. We consider that the danger of a recurrence to the unsatisfactory state of our finances which existed two years ago will be very much diminished, and that, by enlisting on the side of economy, the motive of self-interest and the check of publicity, much money will be saved.

"All this will be done, while the power and authority of the Supreme Government to meet danger or disaster, which may be occasioned by famine, war, or mal-administration, will in no wise be diminished.

"I commend this scheme with the greatest confidence to the consideration of this Council, of my own countrymen, and to the Natives of India; and I believe firmly that, if it is carried out, it will redound, not only to the welfare of the land, but also to the credit of those who have long advocated its adoption, and who have contributed so largely to the preparation of the measures which we now intend to carry into effect."

The Motion was put and agreed to.

LICENSE (N. W. PROVINCES AND OUDH) BILL.

The Hon'ble Mr. Inglis introduced the Bill for imposing a duty on certain trades and dealings in the North-Western Provinces and Oudh, and moved that it be referred to a Select Committee with instructions to report in a week. He had explained fully last week, when he asked leave to introduce this Bill, the reasons which had led the Government of the North-Western Provinces and Oudh to propose the levy of a tax on certain trades and dealings carried on in the territories subject to them, and the purposes to which the sum realized by the tax was to be applied.

It would be observed that a license-tax was proposed on certain specified trades and dealings only; it was not intended to extend it to all. The trades and dealings to be taxed had been selected after very careful enquiry and consideration, and it was believed that those trades and dealings only had been

included in the schedule, of which it might be safely assumed that the whole of the persons carrying them on could without difficulty pay the small tax proposed. All trades and dealings about which there seemed any doubt whether the least competent of the persons carrying them on could pay the tax, had been altogether omitted.

As, however, it was not impossible—though it was not probable—that further enquiry would show that some trades and dealings had been entered in the schedule which ought to have been omitted, or that some trades or dealings had been classed too highly, power was given in the Bill to the Lieutenant Governor to amend or alter the schedule as he might consider necessary.

For the purposes of the Act, trades and dealings had been divided into three classes, charged respectively with a license-tax not to exceed six, four and two rupees a year.

The grand principle underlying the proposed Bill was, that there should be none of that inquisition into a man's profits, or uncertainty as to the amount he ought to pay, which had made the income-tax so deservedly unpopular throughout India.

Lists showing the trades and dealings to be taxed and the sum charged on each, would be stuck up and published in all places where the Act was enforced. So that every man carrying on any trade or dealing would know whether he was liable to pay the tax, and, if so, how much he had to pay.

It was proposed to leave to municipalities the power of determining the manner in which they would provide the amount due from them on account of the tax. Lists of all persons carrying on the trades and dealings enumerated in the schedule to the Act in any municipality would be drawn up. The sum shown by this list to be due would be intimated to the municipality, who would be at liberty, either to pay the amount out of their existing income, or to raise the whole or part of it by a license-tax, or by any of the other means allowed them by the Act which constituted them a municipality.

The amount the tax was estimated to yield was between nine and ten lákhs. This estimate, however, was framed on the returns of the last census in the North-West; and subsequent enquiries shewed that it was probably rather too high.

His Honour the LIEUTENANT GOVERNOR would wish to say one word in respect to this Bill. It was a very important Bill, inasmuch as it was the first of the measures, properly speaking, for new local taxation, because the rate to

be levied under the last Bill had for its object the extension of a system which was well known in the North-Western Provinces, in Oudh, and in other places. But this Bill he should consider a new Bill, introducing new taxation for supplementing the grants made to the Local Governments by the Supreme Government. The Bill raised very important questions of a most difficult character. His own impression was that all Bills of this kind must be considered in a great degree experimental; it might fall to his lot, in another place, to deal with this very difficult question, and therefore he would not commit himself with regard to the principle or details of this measure, beyond what he had attempted in the discussion on the budget-statement, namely, that this tax must be regarded as a law supplementing the income-tax on those classes which the income-tax did not reach. Inasmuch as this Bill was intended to supplement the incomes assigned to the Local Governments, he would, as representing one of those Governments, venture to refer to one point in regard to the amount of those assignments. He had already, on a former occasion, expressed his willingness and anxiety to carry into effect the system inaugurated by the Government of India, and he would not say anything more on the observations of His Excellency the President, than to express his entire concurrence in almost all that had fallen from His Lordship, and His Honour's readiness to carry out the wishes and expectations which His Lordship had expressed. There was one point, however, in regard to which he desired to take exception, namely, the saving of £200,000 of the present year which had been assigned to the Local Governments subsequently to the permanent distribution of the funds. It seemed to His Honour that the assignment of £ 200,000 could not fairly be deducted from the £ 330,000 burden originally thrown on the Local Governments. But taking it as a deduction from the local deficits, it seemed clear that the £200,000 was a grant for a single year only, and inasmuch as the assignment was a permanent assignment, and was meant to be a permanent assignment for a considerable period, and not to be increased, the £200,000 was not a deduction from that permanent assignment. It was thought desirable to make over the management of these charges to the Local Governments, who had the best means of checking the growth and the rapid rate of growth of these particular charges; but still he considered it desirable to say that these charges must increase.

But, further, he wished to submit another consideration, that even as regards the current year, that amount could not fairly be deducted from the charges thrown upon us; for it seemed to him that the £200,000, balance of the

last year, was merely a working capital which it was absolutely necessary to put in the hands of the Local Governments in order to enable them to carry on their business. These savings were a necessary result which must occur in almost every year. It was a part of the scheme that the heads of the Local Departments must each make a budget; the Local Governments must assign so much for Jails, so much for Education, and so on; and when they made those assignments, they must make it strictly understood by each Department that they must on no account exceed those assignments. That must be an essential part of the system. To avoid the risk of overshooting the mark, it would be necessary that each Department should a little undershoot the mark, and that they should understand that, if they overshot the mark, they would be subject to the most tremendous penalties which the Government could inflict. Thus, there would ordinarily remain, from year to year, a small balance at the end of each year.

We did not leave in private life our purses totally and absolutely empty at the beginning or end of a year. It was on that ground that he was inclined to urge that the £200,000 could not be fairly considered a reduction from the burden imposed on the Local Governments.

His Excellency THE PRESIDENT explained, that the statement he had made with regard to the sum of £200,000 which had been added to the assignments made to the Local Governments referred to the present year only. He stated that, with regard to Bengal, £187,000 of burden would be remitted, and that the whole amount that it would be necessary to contribute to place the service in the ensuing year on the same footing was £34,000. He merely said that, for the future, if we could not prevent these heads of expenditure from growing, and he believed they would grow, they would have to be supplied and made up from the proceeds of Bills such as they were now discussing, and that they would be administered with the greatest possible advantage by being placed under the authority and control of the Local Governments.

The Hon'ble SIR RICHARD TEMPLE said he had just one remark to make with reference to what fell from the Hon'ble Mr. Inglis. He had no objection to offer to the Bill before the Council; but he must on this and on every other occasion distinctly object to any comparison being made between this sort of taxes and an income-tax. Whatever the merits of this tax might be, it must stand by itself, and there was no sort of relation or conceivable comparison whatever between this tax and an income-tax. This tax did not pretend in

the smallest degree to aim at anything like equality in its incidence; to anything like an apportionment of the incidence of the tax to the means of the tax-payers. That was a cardinal reason why it could not in any way be compared to an income-tax. If you looked at the schedules, you would find that trades and dealings were put together in a miscellaneous manner. The bankers of Muttra, for instance, were some of the richest men in British India, and there were also bankers of the same status in other stations in the North-Western Provinces. Yet these gentlemen were only charged at six rupees a year. Obviously, as regards these persons, it was a little more than a poll-tax. In the same way, if you were to compare the trades specified in the other classes, you would find many such inequalities. For instance, jewellers were placed under class III, and yet petty dealers were placed in the same class. In the same way, sellers of pán were placed in the same class as the sellers of many articles of European manufacture; and great shop-keepers came under that class in the same category with sellers of sweetmeats or leather. He merely gave a few instances to show that anything like equality could not be found in the Bill. The Bill was one of the roughest in character, and, therefore, no comparison could be made between it and an Income Tax Bill.

The Hon'ble Mr. Strachey wished to make a few remarks because, though perhaps not in this Council, yet outside its walls, there seemed to be considerable misapprehension in regard to the measures of local taxation proposed for the North-Western Provinces, and he thought it just to the Hon'ble Mr. Inglis and the Government of those provinces that this misapprehension should be removed. He had seen it repeatedly asserted in a prominent manner, that the Government of the North-Western Provinces had made to the Government of India various propositions to impose onerous taxes on the people of those Provinces, and that the Government of India was forced to decline to sanction these proposals. It was due, Mr. Strachey thought, to the Hon'ble Mr. Inglis and the Government of the North-Western Provinces, to say, as anybody might have learned who had taken the trouble to read the correspondence which had been published on the subject, that there was not one atom of foundation for any of those assertions. It was quite true that there was some difference of opinion between the Government of the North-Western Provinces and the Supreme Government as to the exact obligations, in the matter of raising new taxation, which had been laid on the Local Government by the Financial Resolution of December last. But in regard to the propositions actually made by the Government of the North-Western Provinces, there had been no difference of opinion between the two Governments from first to last. The proposals of the Government of the

North-Western Provinces were extremely moderate. That Government had published a statement of the estimated charges and receipts of its provincial and local funds during the next year, the amount on each side of the account being about £700,000. It seemed to have been supposed by a great many people that it was proposed to raise this by fresh local taxation. Now, it never entered into any one's head to do anything of the kind. This sum included, not only the imperial grant for provincial services, but the whole of the present and proposed local funds of those provinces. It was difficult to say, beforehand, what the new measures of taxation which the Hon'ble Mr. Inglis had proposed would really yield. He estimated that this license-tax might yield about nine or ten lákhs of rupees. MR. STRACHEY confessed, that, as far as he could judge, he thought that a sanguine estimate; and he should not be surprised if both these measures together did not yield much more than £100,000. Considering the vast extent over which the population of the North-Western Provinces was scattered, and the immense number of necessary works of improvement that were required, no one could say that the North-Western Provinces Government had proposed to put an undue burden on the country. Comparing this case with that of Oudh, it would be remarked that the Government of Oudh proposed to impose taxes that were estimated to yield about £30,000; and considering the difference between the two provinces, he was not at all prepared to say that the measures proposed for the North-Western Provinces were not quite as moderate as those which were proposed for Oudh.

There was another point on which he thought it was desirable to guard against misapprehension, for he had seen, in this matter also, signs that the true state of the case had been a good deal misunderstood. He had said on more than one occasion, that the main source from which charges for local purposes ought to be met was the land. Now, he had no doubt that this was quite as true in regard to the North-Western Provinces as it was in regard to Oudh; and it had been really more completely acted upon in the North-Western Provinces than it was even in Oudh. Some people who were ignorant of the real facts of the case seemed to be under the misapprehension that, in the North-Western Provinces, the greater part of the funds required for local purposes would, under the proposals of the Government of the North-Western Provinces, be raised from the non-agricultural, and not from the agricultural, population. There could be no greater mistake. He would compare what was happening in the North-Western Provinces with the case of Oudh. In Oudh, with the additional rates proposed in the Bill he had that day introduced, the total annual charge on land for provincial and local rates would be two and a half per cent. on the rental. In the North-Western Provinces, in all those

districts where the settlements had already expired—which, practically, was the whole of the North-Western Provinces, for there were only two or three districts in which the settlements had not expired—the local rates levied for a long time past had been five per cent. on the annual value of the land: and in regard to that matter, as the Hon'ble Mr. Inglis had before explained, the present Bill really did no more than give the approval of the legislature to a policy that had long been carried out.

The Bill proposed to place no additional burden on the land in the temporarily settled districts; but still the fact remained that, in the North-Western Provinces, five per cent. on the rental was assigned for local purposes, against two and a half per cent. in Oudh. It was true, no doubt, that these percentages were not really comparable one with another; for this reason, amongst others, that the charge on account of the Rural Police in one case was included, and not in the other. Still, the charge in the North-Western Provinces was higher than what it was in Oudh. He thought it right to say this much, in justice to the Government of the North-Western Provinces, in regard to the measures in charge of his Hon'ble friend Mr. Inglis.

As to this particular Bill for imposing duties on certain trades and dealings, he must congratulate his Hon'ble friend and the Government of the North-Western Provinces in having brought forward what appeared to him to be the very best Bill of the kind that had come before the Council. We had of late years over and over again had so-called license-taxes and certificate-taxes which had been imposed on the mercantile classes. But all these Bills, whatever they might have been called, had been in reality income-taxes in disguise. This Bill was nothing of the kind; and, as the Hon'ble Sir Richard Temple had just said, it must be judged quite differently from an income-tax: and this peculiarity of this Bill was in his (MR. STRACHEY'S) eyes one of its greatest merits. It imposed small duties on certain specified trades and dealings; but it did not propose to place any duty on traders, and the non-agricultural classes generally. It involved no enquiry into any trader's means, and it afforded no opportunities for extortion. The duties which this Bill imposed on trades were not dissimilar—he might say were identical—in nature to the duties imposed from time immemorial for licenses on brewers and grocers, and dozens of other trades in England. No doubt the inequality of this tax was theoretically an objection to it; but it was an objection which was counterbalanced by the certainty of the tax. As the Hon'ble Mr. Inglis had pointed out, every trader who wanted to know what he had to pay, had only to look at the schedule. MR. STRACHEY thought another merit of the Bill was

to be found in those sections to which his Hon'ble friend had referred, sections twelve to fifteen, which related to the payment of the duties in places where there were municipalities.

In all the principal towns of the North-Western Provinces, there were now municipal bodies. If this Bill became law, there would be no necessity in such towns for paying this particular tax if it was considered that there were better means of providing the funds which were required. If, for example, it was ascertained that, if the provisions of the Bill were applied to a certain town, it would have to pay ten thousand rupees; then, supposing, after providing for all its local wants, there remained a surplus of ten thousand rupees derived from octroi duties or anything else, or if it was found that, by any modification of its taxes, it could provide that amount, it would be competent to the municipality to pay the ten thousand rupees, and get rid of the obligation imposed upon it by the present Bill. It seemed to him that these were excellent provisions. Our system of taxation, as he had long thought, had been a great deal too much in the nature of Procrustes' bed. This measure had an elasticity which would add a great deal to its value.

The Motion was put and agreed to.

LOCAL RATES (N. W. P.) BILL.

The Hon'ble Mr. Inglis also introduced the Bill to provide for the levy on land of rates to be applied to local purposes in the North-Western Provinces, and moved that it be referred to a Select Committee with instructions to report in a week. He said that, in the temporarily-settled districts of the North-West, a cess of five per cent. on the annual value of every estate of which the settlement made under Regulation IX of 1833 had expired, was now levied under an order of the Executive Government. Section four of the proposed Bill provided that this cess should in future be levied under the authority of a legislative enactment.

Section six of the proposed Bill provided for the levy of a rate not exceeding two annas for each acre of cultivated land in the permanently-settled districts, the cess to be paid by the landlords; who would receive power to recover one-half the amount levied on the land held by tenants subordinate to them.

The Government of the North-Western Provinces, after full consideration of the subject, had decided that it was better to levy this cess by a rate on land, rather than by a rate on rent paid. The rate was so small that it could

be paid with ease on all classes of soil, and though we had a pretty accurate knowledge of the area under cultivation in the permanently-settled districts, we had no returns shewing the various kinds of soil and the prevailing rent paid on each, such as we had for the temporarily-settled districts; consequently, there would be great difficulty in ascertaining the actual rents paid, especially in villages where rents were paid in kind, and for land held as sír; but the remarks on this subject made by His Honour the Lieutenant Governor of Bengal last week, would be carefully considered in Committee.

Section fourteen empowered the Local Government to appoint local committees for the management of this fund. We had already, in all the districts of the North-West, local committees composed of the leading Native gentlemen of the district, who were charged with the administration of the existing local funds. These committees had been established for many years, and had been found to be of the greatest assistance to the Collectors of the districts in all matters connected with the expenditure of these funds.

Mr. Inglis intended to have referred to the curious mistake he had heard stated, that the Lieutenant Governor of the North-West proposed to raise by new taxes no less a sum than £750,000; but this mistake had been so well explained by the Hon'ble Mr. Strachey, who had done it so much better than he could have done, that he should not go over the same ground.

There was, however, another statement which he had heard made several times, on which he should like to make a few remarks, which was, that the Lieutenant Governor of the North-West had taken advantage of the system introduced by the Resolution of the 14th December last, to raise by new taxes a large sum which would not otherwise have been required.

Now, he thought there was nothing in the letter of January last from the Government of the North-West which could warrant this inference. It was there stated that, during the past three or four years, the grants to the Department of Public Works, on which the permanent assignment had been based, had been from unavoidable circumstances below the actual and pressing requirements of the North-West: and that, had the old system continued in force, Sir William Muir would have felt himself bound to apply to the Supreme Government for an increase to the grants for the maintenance and repairs of existing roads, and for the construction of new ones. Under the old system, it would have rested with the Government of India to decide whether this increased expenditure could be incurred, with reference to the general income and to the wants of other provinces. That was, to decide

whether these repairs should be executed, or these new roads should be constructed.

But, as under the new system, the responsibility of maintaining this department of the public service in a proper state of efficiency had devolved upon the Lieutenant Governor, he had determined, being convinced of the urgent necessity of these works, to raise the amount required by new taxes.

The construction of three new lines of railway through the North-Western Provinces—the East Indian Railway Line, the Panjáb and Delhi line, and the Oudh and Rohilcund Railway—had completely changed the course of traffic throughout the North-West; had made many old roads useless, and had rendered absolutely necessary the construction of many new ones, if the traffic of these railways was to be developed to its full extent, and the trade of the country was to reap the full advantages of these improved means of transit.

The Hon'ble MR. CHAPMAN had recently ventured to express his apprehension as to the amount to which we were increasing the burdens of the people. He found that the total deficit in the assignment to provincial services made to the North-Western Provinces was five lákhs of rupees, and to meet these five lákhs three times that amount was proposed to be levied.

His Honour the LIEUTENANT GOVERNOR said that, on looking at the copy of the Bill which had been supplied to him, he read, on the outside, that it was a Bill for the levy on land of rates to be applied to local purposes, and inside, he found that the rate was to be levied for *provincial* local purposes. It appeared to him that the insertion of the word 'provincial' raised a large question. He was not quite sure whether the title inside the Bill was correctly printed, and whether it should not be provincial *and* local purposes. He thought that the question of raising rates for provincial purposes was a very important one: it raised a distinction of the greatest magnitude; a distinction which had been seized by the Committee which sat on this subject in the North-Western Provinces, whose report had been published It was there pointed out that there was the greatest distinction between provincial and local purposes as applied to the Bill for the levy of rates. Rates levied for the purposes of a great Province could in no ordinary sense of the term be called local; certainly not in the sense used in the British Isles and other parts of the world. He might take it, then, that the present was a Bill to raise certain revenues, not only in the nature of local rates, but also for provincial purposes, as applied to the whole of the North-Western Provinces.

He was not going to attempt to discuss the details of this Bill; but the consideration which he wished to submit to the Council was that, in the drawing of this Bill, it did appear to him that provincial considerations prevailed to a greater extent than was desirable in the levy of rates of this description. It might be said that this was not so, because you were to devote seventy-five per cent. of the rate to the improvement of the district in which it was raised, and this local fund was to be administered through local committees. But he was inclined to think that a good deal of the objection would lie, for the character of the rate to be levied was somewhat peculiar. It was undoubtedly a very heavy rate, but a very large proportion of it was for the support of the village chaukídárs—two-thirds of the whole. Now, we knew that these village chaukídárs were necessarily in their character local, and it followed, therefore, that two-thirds of the whole rate would be necessarily expended for a local purpose. The result seemed to be, that the tax now imposed for general purposes by the cess proposed was not so heavy as it at the first sight appeared to be; that it was not in reality very much heavier than the cess which was proposed to be levied in Oudh. But there was this important difference, that in imposing a rate of five per cent., one-quarter of which might be spent for provincial purposes, you got, for provincial purposes, as large a sum as was proposed to be raised altogether in Oudh, where the rate was one and a quarter per cent. You got exactly four times the sum which you got for the same purpose in Oudh.

It appeared to him that the expenditure on account of what he might call obligatory local purposes must first necessarily be deducted, while the money available for what he might call optional and discretionary purposes, was almost entirely in the hands of the Local Government, to spend for almost any purpose. The purposes which the law left to the discretion of the Local Government were very wide: they were not only the construction and repair of roads, schools, hospitals, dispensaries, lunatic asylums, markets, wells and tanks, but any other works likely to promote the "health, comfort or convenience" of the people. He was sure that the Lieutenant Governor of the North-Western Provinces would do all he could to contribute to the health and convenience of the people; but still, almost anything might be brought under those words, and you put in the hands of the Local Government a large margin, which would enable him to do what he liked with the whole of the rates from those Provinces.

He would now say one word with regard to the administration of these funds. His Excellency the President declared, with great force and truth, that great advantage would be derived from the assistance of intelligent residents,

Natives and Europeans, in the management of these local funds. But with regard to the nature of the provision made in the Bill for local administration, HIS HONOUR thought that the Hon'ble Mr. Inglis and the Hon'ble Mr. Strachey, and other Members who had had practical experience of the working of such local Committees, would know pretty well that they had not in all cases been a very great check, and that the Magistrates had sometimes been able to do pretty much as they liked with the local funds. District officers had told His Excellency, the President, that they had found no difficulty in dealing with Native members. He thought that other members had probably found, as HIS HONOUR had in days when they were young, that the Magistrate had sometimes no trouble in being able to do pretty much what he liked with the money. He could not suppose that District officers were likely generally to do that sort of thing, and he hoped and believed they would attend to the desires and wishes of their constituents. But, at the same time, if we necessarily left it a good deal in the hands of the local officers to appoint to the committees, they were not likely to appoint Native members who would give them trouble. It might be difficult to constitute the committees otherwise; but, in respect to the area over which these committees had control, he did think that, in so far as the rate was intended to be a local rate for local purposes, and not a provincial rate for provincial purposes, it would be desirable, not only that the district committees should have something of a popular character, but that there should be local sub-committees of a still more popular character, who might administer the local funds allotted to them for strictly local purposes in which they were really interested. He feared that Indian districts were too large for local rating for all purposes, and that the greatest proportion of the tax-payers did not really look on the thing as a local tax at all. They looked upon the rate as a tax, and the thing was not brought home to their minds by a strictly local expenditure of the money for their own benefit before their own eyes. He hoped we would even come down to the formation of local unions of villages, in which it might be that local obstructions, local roads, local nuisances of all kinds in which the the committees of such unions might be interested, would be improved from the money paid for local purposes, by which means he believed that the people might come to appreciate this tax: they would come to feel that it was for their own benefit, and that, so far as the local rates were concerned, they got something for their money.

HIS HONOUR was gratified to learn from the Hon'ble Mr. Inglis that, so far as could be done, the observation which HIS HONOUR had made on the subject of the imposition of the rate on area or acreage, would receive attention in Select Committee. He would now only call attention to this, that the Committee

which sat in the North-Western Provinces recommended that the rate should be assessed on the rents of the land, and not on the acreage; at least that he understood to be the result of the recommendations.

He had already noticed that two-thirds of the expenditure was not for the purposes for which local cesses were ordinarily levied, but was to be devoted to the maintenance of the village chaukídárs. He wished to understand whether this expenditure was to be in addition to, or in substitution for, the mode of paying for their services now obtaining. There had been a good deal of difference of opinion on this point, and he was anxious to secure this village institution to the people of the North-Western Provinces. He was extremely unwilling to see the village chaukídár turned into a Government officer, at an expense equal to that for maintaining the Native Army. His Honour's view of this question had always been, that it was better to maintain the independence of an indigenous institution like the village constabulary. The village chaukídár was a man who served the villagers. He was paid by the people for services rendered to them, and they willingly paid a small contribution without feeling it a burden. But if you imposed a higher rate to pay a local policeman, you imposed a heavier burden on the village community, in respect of which he doubted whether the result and advantage were commensurate to the heaviness of the burden. Therefore, he was anxious to know whether this rate, so far as it applied to the maintenance of the village Police, was in addition to the burden which the village communities had hitherto borne, or whether it was in substitution of that burden, and, if so, how the substitution was to be arranged.

The Hon'ble Mr. Ellis need hardly say that he concurred with the greater part of what had fallen from His Honour the Lieutenant Governor, in regard to the distinction between local and provincial taxation. He thought it would be a matter for consideration whether we should not adopt the title printed outside the Bill, instead of the title as it stood inside; whether we should not declare the Bill one for the imposition of local rates, and not one for the imposition of local and provincial rates. The same remarks which he had made with regard to the seventy-five per cent. allotment for Oudh would apply to this Bill, and he should be glad if the Committee which would be appointed to consider this Bill were not only to adopt the suggestion which had been made by His Honour as to the amendment of the title, but accept the proposal Mr. Ellis would venture to make that, instead of only seventy-five per cent. being appropriated to local purposes, the full hundred per cent. should be so used; and that all sums levied under the Bill should be applied to the

improvement of the districts in which they were raised, and not in any other district or for the general purposes of the Government. He thought this distinction was the more important, as, under this Bill, it was proposed for the first time to tax, for local purposes, the districts in which a permanent settlement of the revenue prevailed. He thought the tax would be very easily collected if the rate-payers knew that it was for their own local benefit, and was not to be mixed up with revenue raised by the Imperial Government for imperial purposes, and if they saw that the sum raised was expended exclusively in the district in which it was raised. In this case it was much more important than in the case of Oudh to insist on this distinction.

He believed, also, that amongst the objects on which the money was to be expended was Police. He presumed that by the term Police was meant the Police of the villages. He fully concurred in all that His Honour the Lieutenant Governor had said on this point, and he trusted that an assurance would be given that it was not intended to impose a heavy tax to provide a stipendiary force in substitution of the old village Police. If the Bill was applicable to the village Police only, he thought it should be so stated therein, and that it should not be left to be supposed that we were levying local taxation to pay the district Police; an obligation which had hitherto fallen on imperial funds, and which would be henceforth discharged from the provincial assignments.

With reference to what had fallen from His Honour as to his experience that district officers did pretty much what they liked with local funds, MR. ELLIS thought there was one class of district officers to which His Honour had not referred, and that this was a large and valuable class. There were some district officers who had no difficulty in dealing with local committees, not because they carried everything their own way, but because, having consulted their local committee, they found that the very valuable advice and assistance they received from the committee enabled them to work more effectually than they would otherwise have been able to do. He was quite sure that the number of such district officers would increase; therefore he was much more hopeful than His Honour of the increasing usefulness of these local committees.

The Hon'ble SIR RICHARD TEMPLE said that, as these matters trenched on finance, there was just one topic to which he must take the opportunity of briefly adverting. He alluded to the allegation made in the letter from the Government of the North-Western Provinces, addressed to this Government in the Financial Department. The passage in question runs thus:—

"The Resolution imposes a portion of the imperial deficit, amounting ostensibly to £48,030, on the North-Western Provinces, while there is actually devolved on these Provinces an expenditure hitherto imperial which, with the deficit, amounts to £142,079."

Of course this passage meant that we nominally imposed upon them new taxes in respect of £48,000, but in reality we imposed upon them taxation to the amount of £142,000, or just three times that amount. Perhaps it might be considered unnecessary for him to refute this argument after what had fallen from His Excellency the President and his hon'ble friend Mr. Strachey; but as this was a matter which related to the Financial Department, he must beg to be allowed to say a few words. The argument really rested on the following passage of the letter to which he had referred:—

"The civil estimates have been retrenched to a point utterly inadequate to the requirements of these Provinces * * * the supplies necessary for the ordinary repair of main lines have been well-nigh stopped: those for the repair of buildings have been cut down, and the construction of new works, even where urgently required, has been for the most part postponed."

This was a stock argument of every Local Government whenever we attempted to cut down their expenditure—when we told them that there was a need of our cutting our coat according to our cloth. If in any instance we failed to act up to that principle, it was because we listened to arguments of this description. The inference attempted to be drawn was, that the grants for the current year were inadequate or unfair to the North-Western Provinces as compared with other Provinces, and were less than what we should have been compelled to grant in the next year. To any such inference he begged to demur. The grants of 1870-71 were quite just, and as much as we could afford, and we did not intend, and would have refused, to give, one farthing more. That was the plain fact of the case. Well, that being the case, the amount of taxation imposed upon the Government of the North-Western Provinces was just £48,000, or, according to the corrected figures, £46,753; and His Excellency the President had already explained to-day that it was certain that, for the next year, the amount would be less than that. The demand for 1871-72 was only £18,000; but even taking it at the full amount of £46,000, that would represent the amount of burden which our present budget really imposed on the North-Western Provinces in future years. But it would never be more. Therefore, he must take this opportunity of denying most explicitly that we imposed anything more than £46,000. From the correspondence that had since ensued, it was possible that the North-Western Provinces Government might not stand by that declaration; but whether they stood by it or not, the correspondence had been published in their local Gazette and had become known to the public. Therefore, he thought it necessary, being a financial point, to take the opportunity of giving this explanation of the matter. As far as there might be a necessity of imposing additional taxation, it was not the Financial Depart-

ment of the Government of India that imposed that necessity. Even taking the estimates of the Hon'ble Mr. Inglis, the proposed License Tax Bill and local rating Bill would produce, together, something under £130,000. Then, what SIR RICHARD TEMPLE had to observe was, that if anything like that amount was raised, it was raised on the responsibility of the Local Government and its local advisers. It was not raised from any compulsion on the part of the Government of India. The utmost amount that could be raised on our compulsion was £46,000. Whatever amount was raised beyond that was raised because the local authorities believed that it could be equitably and reasonably raised. They were responsible, and not the Government of India, for every farthing that was raised beyond the £46,000.

He desired to make these observations purely with reference to the tenor of the correspondence which had been published. The really great point he wished to elucidate was this: the action now to be taken was really the action of the responsible Local Government who in their wisdom and justice believed that the amount to be raised was such as could be raised with propriety.

The Motion was put and agreed to.

LIMITATION OF SUITS BILL.

The Hon'ble MR. STEPHEN presented the report of the Select Committee on the Bill for the Limitation of Suits.

RAILWAY BILL.

COLONEL the Hon'ble R. STRACHEY moved for leave to introduce a Bill to amend the Railway Act. He said that a very few words would suffice to explain the objects of the Bill. The necessity for the amendment of the Railway Act, XVIII of 1854, had long been admitted. A Bill had been for many years before the Council, intended to bring about that amendment of the law. The Bill went before a Committee, and after having been carefully revised by them, was sent to the Secretary of State. The Secretary of State consulted the Boards of the several Railway Companies in England, and serious objection was taken to the form proposed to be given to the law. The result was that the draft was sent back by the Secretary of State for re-consideration, and it now appeared almost certain that it would be impossible to proceed with the Bill in the form in which it stood. It was difficult to make a law that would satisfy the Government and the Railway Companies, and there could be no question that a considerable length of time must elapse before any law could be passed on the subject; but various points had arisen in the administration

of Railways which would require immediate correction, and on these all parties were, he thought, agreed. It was to amend these particular points that the present Bill was proposed.

The first of these points related to the fencing of Railways, and the second related to the trespass of cattle. Another was the definition of "Local Government," the authority under which the powers of the Railway Act were exercised. Then, there was an obscurity regarding the definition of the term "Railway" itself, which it was proposed to correct; and, lastly, some alteration seemed desirable in the mode of dealing with the regulations made for the guidance of the servants of the Railway Companies. These, however, were little more than matters of detail, which, though important in their own way, did not call for any discussion of principle, and therefore it would not be necessary for him to say anything more on the subject at this time.

The Motion was put and agreed to.

PENSIONS BILL.

The Hon'ble MR. COCKERELL moved that the Hon'ble Mr. Ellis be added to the Select Committee on the Bill to consolidate and amend the law relating to Pensions.

The Motion was put and agreed to.

FINANCIAL COMMISSIONERSHIP (OUDH) BILL.

The Hon'ble MR. STRACHEY said that no notice had been given of the motion he was about to make, but the matter being somewhat urgent, he would apply to the President to suspend the Rules for the Conduct of Business, to enable him to move for leave to introduce a Bill to abolish the office of Financial Commissioner of Oudh.

The President declared the Rules suspended.

The Hon'ble MR. STRACHEY then moved for leave to introduce a Bill to abolish the Financial Commissionership of Oudh. Both the present Chief Commissioner of Oudh, and Mr. Davies, late Chief Commissioner, had come to the conclusion that, in consequence of the progress that had been made in the settlement work, and for other reasons, the considerations which formerly made it essential to have a separate Financial Commissioner for Oudh, no longer had any great force; and it was quite possible to abolish the Financial Commissionership and thus save a considerable sum of money every year. But, as the law now

stood, the Financial Commissioner virtually possessed, in certain classes of cases, the powers of a High Court, and other duties were imposed on him by law. It was necessary, before the appointment could be abolished, to provide for the disposal of the appellate jurisdiction which was now discharged by the Court of the Financial Commissioner. It was proposed to make over a portion of the work to the Chief Commissioner, a portion to the Judicial Commissioner, and a portion to the Commissioners of Divisions. There were, at the present moment, a considerable number of cases pending in the Appellate Court of the Financial Commissioner, and it was impossible that the Chief Commissioner, with all his executive duties, could himself dispose of all this business. The Bill being of a very simple character, and delay being injurious, MR. STRACHEY might, probably, at a future stage of the proceedings, ask His Excellency the President to suspend the Rules to enable the Bill to be proceeded with as quickly as possible.

The Hon'ble MR. STEPHEN desired to make an observation or two on this Bill. He had not the least doubt that this Bill was necessary, but he regarded it as a necessary evil. The law in relation to the Courts in Oudh was altogether in a most unsatisfactory state. There were at least three Acts on the subject, which it was by no means easy to understand in their relation to each other. There was, in particular, a most extraordinary provision by which the Central Provinces Courts' Act was somehow mixed up with the Oudh Courts' Act, and the result was to produce great confusion. The Bill proposed to be introduced would for a short time make that confusion worse confounded than before, and the notification would add to that worse confounded confusion. He hoped, however, in the course of the summer, to put the whole of the law relating to the Courts in Oudh into one Act of an intelligible character. Much had been said on the subject of judicial reform in the Courts; it was far too wide a subject to say anything about at the present moment. It was, however, an absolutely necessary preliminary to any judicial reform whatever worthy of the character, that the law relating to the actual existing Courts should be got into an intelligible shape. We had Civil Courts' Acts for Bengal and Bombay; we had Acts for the Panjáb; an Act for the Central Provinces, and he hoped that they would very soon have an Act for Oudh. An Act of the same sort with regard to Madras had also been under consideration. He had heard that the Madras Government felt some reluctance to have that Act proceeded with, because improvements might be introduced which would make it necessary to have a new Act. He earnestly hoped that the Madras Government would help in passing that Act and provide the Government of India with the materials necessary to put it into proper shape. Because, until we had

the whole law on the subject in an intelligible form, it was impossible to discuss the subject on general grounds, or even to consider any specific or general improvement. He thought it would be extremely desirable to get the whole law on the subject into shape, and although it was necessary to pass the present Bill, he hoped to take the earliest opportunity to consolidate the law relating to the Courts in Oudh.

His Honour the LIEUTENANT GOVERNOR wished to say a few words with regard to what had fallen from the Hon'ble Mr. Stephen. No one could be more in favour than he was of a consolidation of the law in an intelligible form, and no one could appreciate more than he did the immense service that was likely to be done to India by the Hon'ble Member who had in so energetic and vigorous a manner undertaken those duties. We might expect that, during the time the Council would be absent from Calcutta, a very large amount of work would be done by that gentleman; we could not but appreciate what had been done up to the present, and we must appreciate what might be done in the future. But only this very morning a doubt had been suggested to HIS HONOUR, with respect to the consolidation of the law as it would affect the Local Government of Bengal, whose legislative powers might be more or less affected by these measures of consolidation. The result of consolidating all the old laws and bringing them into a new law was to deprive the local legislature of all power of dealing with them in any form, a power which the existing law gave with respect to old laws of the Indian legislature, but not with respect to new laws. To put a case in point. Before the Bengal Civil Courts' Bill was passed, it was competent to the local legislature to deal with the jurisdiction and powers of Munsifs as they thought proper; but, as the law now stood, though it had been put into a more intelligible form, the result had been that the Bengal Legislative Council was totally deprived of the power of entertaining any matter connected with the powers and jurisdiction of Munsifs, even in regard to the most minute particulars. And his opinion was that, if the work of consolidation should be carried on in the same manner with the rest of the existing law, the result would be virtually to deprive the local Council of all legislative power whatever, because nothing would be left for them to legislate about except in the matter of imposing new taxation, or making laws on subjects on which nobody ever made any laws before. He therefore ventured to suggest whether, in consolidating the law, it would not be possible to make some arrangement for saving the future power of the local legislature to deal with such matters as were within the legislative capacity of that body.

The Hon'ble MR. STEPHEN said that he could assure His Honour the Lieutenant Governor that there was not the least danger of the measures of consolidation

undertaken by this Council having the effect which he had mentioned. If the Bengal legislature would undertake any work of this kind which it could undertake, the Government of India would be very glad. With regard to the Bengal Civil Courts' Act recently passed, it had been very carefully considered by the late Lieutenant Governor and the local authorities, and the views which had been expressed by the Bengal Government were most carefully considered. With regard to such matters as the jurisdiction of the Courts, there were many points which the local legislatures would be incompetent to deal with, as, for instance, the relations between the High Courts and the Subordinate Courts. Moreover, by the Acts which had been passed, large powers were reserved to the Local Governments to regulate every matter which they could have a desire to regulate. Surely it was not desirable that these matters should be left in a state of vagueness, because the Local Governments could not deal with them, and because we would not do it for fear of interfering with the legislative powers of the Local Governments. If the Local Governments would favour us with any expression of their views, he was sure that there was no desire on the part of the Government of India to interfere in the smallest degree with their action. With regard to the Bill for Madras, he might mention that it was taken up by the Executive Government at the express desire of the Madras Government, because they had not the power to deal with the subject. If these matters were to be put into shape, the Government of India was the only authority that could do it, because they were subjects which interfered more or less with the functions and jurisdiction of the High Courts.

The Motion was put and agreed to.

The following Select Committees were named :—

On the Bill to provide for the levy of rates on land in Oudh—The Hon'ble Messrs. Stephen, Ellis, Cockerell and Inglis, and the Mover.

On the Bill for imposing a duty on certain trades and dealings in the North-Western Provinces and Oudh—The Hon'ble Messrs. Strachey, Stephen, Ellis, Chapman, Bullen Smith, Cockerell, Cowie and Robinson, and the Mover.

On the Bill to provide for the levy on land of rates to be applied to local purposes in the North-Western Provinces—The Hon'ble Messrs. Strachey, Stephen, Ellis, Chapman, Cockerell and Robinson, and the Mover.

The Council adjourned to Friday, the 24th March 1871.

CALCUTTA,
The 18*th March* 1871.

WHITLEY STOKES,
Secy. to the Govt. of India.

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have said, the responsibility for the measure is mine, I feel bound in fairness to say that whatever credit attaches to the plan on which it is arranged and drawn is his. My belief is, that the Bill will be found, when it passes into law, to have reduced to a state of complete lucidity, and to have brought within the narrowest compass into which such a matter could be brought, one of the most intricate and uninviting, though it is also one of the most important, branches of the law. I will try to state in a simple manner how this has been effected.

"It is singular that the general objects of the law of prescription, which is one of the driest and least inviting branches of the law, should have been stated to the world at large by nearly the greatest of Irish orators in the most perfect and poetical image that he ever employed. 'Time,' said Lord Plunket, 'holds in one hand a scythe, in the other an hourglass. The scythe mows down the evidence of our rights; the hourglass measures the period which renders that evidence superfluous.' It is much to be regretted that the law to which the metaphor referred was so much less perfect than the metaphor which described it. Some of the very strangest of the curiosities of English law were and still are connected with this subject. I will mention one of them by way of illustration. Prescription, according to the common law of England, was founded on a constant and peaceable enjoyment of such matters as could, to use legal language, be 'prescribed for,' 'from time whereof the memory of man runneth not to the contrary,' and, for reasons which I suppose were once satisfactory to body, the memory of man runneth to the beginning of the reign of Richard I, and no further. The late Baron Parke (Lord Wensleydale) whose extraordinary powers of mind were unhappily devoted, to a considerable extent, during a long course of years, to quibbles altogether unworthy of him, is said to have doubted this opinion, and to have maintained that the memory of man ran, either to the period when Richard set out on the third crusade, in 1190, or to the period when he returned from it in 1194; a point which it might have become practically necessary to decide if proof had been given that a custom had originated in 1192. How these sublime and mysterious subjects were qualified by a useful rule that, upon proof of thirty years' enjoyment of a right, it should be presumed to have originated before the reign of Richard I. How this fiction was aided by one of the very worst drawn of the numberless clumsy statutes which disfigure the English statute-book, and how the fiction and the Act still occasionally work gross injustice, are matters on which I cannot now detain your Lordship

and the Council. I pass at once to the state of the Indian law which it is proposed to reduce to order and system.

"That law is at present embodied, for the most part, in Act XIV of 1859, upon which, in the course of twelve years, there have been between 1100 and 1200 decisions of the Courts. The main object of the Bill is to reduce this mass of matter to a single Act. Before entering upon the details of what has been done, I will make a few remarks on the general character of this operation.

"In all countries in which there is any regular administration of justice, and above all in countries in which the legal system is founded upon the law of England, the Courts of Justice form in fact, if not in name, an important branch of the legislature. Laws, whether written or unwritten, are expressed at first in more or less general language. These generalities have to be applied to particular cases as they arise. Each decision in turn narrows what was previously general. Fresh cases disclose unsuspected distinctions. The addition or subtraction of a particular fact varies previous decisions, and the result is, that, after a time, a rank crop of decisions grows up, the study of which becomes one of the most laborious, and in some ways one of the least satisfactory, of all human employments. I can hardly imagine a sight less pleasing to a person who dislikes the waste of human energy and talent, than that of a Court of Justice occupied in discussing a point of law which is of little intrinsic importance. More than once or twice have I seen four judges, perhaps as many or more eminent barristers, and several attorneys, engaged for hours, or even days, in debating with the greatest earnestness whether, if the legislature had thought of something of which it never did think, it would have laid down this way or that, a rule which, as far as the public are concerned, might nearly as well be laid down in one way as in the other. When I have computed the expense of the discussion, by adding the fees of the professional men employed in it to the day's pay of the four judges and the other officers of the Court, and when I have reflected that the matter might be disposed of in five minutes, if it were settled, not by affecting to determine what an ill-drawn law would have meant if it had any particular meaning bearing upon the point, but by considering what arrangement would be most expedient for the public, the thought has crossed my mind, that it would be highly desirable if the parties in the particular case could be made to draw lots, and the general rule were laid down for the future avowedly with a view to general convenience.

"I do not mean for a moment to deny that judicial legislation has great advantages. When the minds of a number of able men are constantly directed to the minute detailed application of general rules to various combinations of facts, there can be no doubt that much matter of great intrinsic value is collated, and that the habit of seizing legal principles and applying them distinctly to the facts to which they relate is cultivated to a very high pitch of perfection. The English Law Reports contain, no doubt, a mass of accurate and refined reasoning, a store of strong common sense, and an amount of practical wisdom and experience of which it is difficult to over-estimate the value; but the richness of the mine is only to be equalled by the extraordinary difficulty of working it. If every one who had occasion to administer the law could always have at his elbow a law library of many hundred volumes; if he were fully master of all the contents of all of those volumes; and if he always had time to refer to as many of them as bore upon the matter in hand, he might, no doubt, derive the same sort of advantage from the study of every point in every case that came before him, as a naturalist finds in examining specimens through a microscope. If, in short, a lawyer were a schoolman, the form into which judicial legislation throws the law would be as well suited to his wants, as the form into which scholastic disputations threw metaphysics was to the schoolmen of the middle ages. Law, however, is a practical matter, in which economy of time and labour are of the very first importance; and though this is true everywhere in these days, its truth is nowhere so apparent as it is in India. When we consider the amount of work which an Indian judicial officer has to do, and the circumstances under which it has to be done, it is difficult to exaggerate the importance of making the rules by which such officers are to be guided as plain and distinct as it is possible to make them. It is thus essential that judicial legislation should be followed as closely as possible by direct legislation, and that, when a considerable number of cases have been decided by the courts upon any given subject, the legislature should throw their decisions into the form of express rules, systematically arranged and freed from the mass of collateral matter and detailed facts in which, from the nature of the case, they have to be embodied when they are enunciated by the judges. This is specially necessary in a country in which there are four independent High Courts, and an all but independent Chief Court, which do not always agree in their view of the law.

"These are the general observations which the Bill suggests. I now come to its special provisions. The present law upon the subject is contained, for the most part, in Act XIV of 1859 and the numerous decisions upon it to which I have referred; but many other Acts contain provisions upon the subject of limitation, and though it was not found possible to make a complete collection of them,

parts of no less than thirty have been comprised within the present Bill. Act XIV of 1859 has been repealed, with the exception of part of one section, section 15. It is no doubt inconvenient to leave that section untouched, but the reason is that it, or the greater part of it, relates rather to a right of property, than to the subject of limitation, which is connected with it obscurely and incidentally. It will be possible to repeal that section altogether whenever the Code of Civil Procedure is re-enacted; an operation which will have to be performed at no very distant time.

"To pass over minor matters for the present, the main reason which has made the Act of 1859 so prolific of decisions is that, in many places, it declares that the period of limitation is to run from the time when the 'cause of action arose.' Now, it is most difficult to determine at what precise period in a transaction the cause of action does arise, and most of the litigation upon statutes of limitation here and in England has been rendered necessary by the necessity for answering this question. One or two illustrations will make this plain. I dig a hole in my own ground, which in course of time causes my neighbour's wall to fall. Does his cause of action arise when the hole is dug, or when the wall falls? I divert a stream of water from my neighbour's ground. Does the cause of action arise when I first divert it, or does a new cause of action arise at every moment during which the diversion is maintained? I lose my watch; some one else finds and keeps it. Does my cause of action for the recovery of the watch arise when I lose the watch, when he finds it, or when I ask him to return it and he refuses? I accept a bill of exchange payable on demand. Does the right of action of the holder of the bill arise at once, or not till he has made demand? These and many other questions of the same sort have been eagerly debated and decided by the Courts in England, in the United States and in British India, for a great length of time, and they constitute one great difficulty, probably *the* great difficulty in dealing with the subject.

"It is dealt with in the Bill in the following manner. A very elaborate schedule has been appended to the Bill, which specifies, in reference to as many as one hundred and sixty-nine different kinds of suits, appeals and applications, first, the description of suit, appeal or application; second, the period of limitation; and, third, the specific date from which time is to begin to run. No labour has been spared by Mr. Stokes in making this schedule as complete as possible. It has been necessary to insert in it what I may call a residuary clause (118), which provides a six years' limitation from the time when the right to sue accrues for suits not otherwise provided for; but so many suits have been specifically provided for, that I hope that clause will have to be put into

operation far less frequently than the corresponding clauses in the earlier Act, which have given occasion to so much litigation. This schedule is one of the principal features, and I think the most original feature, of the Bill, and I therefore mention it thus prominently. An incidental advantage of it is, that it will greatly facilitate the amendment of the Act should it be hereafter required. The amending Act will consist simply of an enactment that certain clauses shall be added to the schedule, and the Act can thus be kept up to date, so to speak, with very little trouble or disturbance of its substantive provisions.

"I now proceed to give some account of the other provisions in their order.

"The Act is to come into force on the first of July next, but the parts of it which affect the limitation of suits are not to apply to suits instituted before first July 1873.

"We have adopted this rule as a reasonable compromise between the hardship of applying the new law, at once, to all existing rights of action, the effect of which might be to bar rights to sue which are at this moment in existence, and the inconvenience of exempting all existing rights of action from the operation of the law, the effect of which would be to keep the old law partially alive, in some cases, for as much as sixty years. Practically, the matter is comparatively unimportant, as the new and the old law differ but little in substance.

"We have provided expressly that the Act is not to apply to proceedings under the Divorce Act. The Divorce Act was not passed till ten years after the Limitation Act, and it contains no period of limitation. The question whether, under these circumstances, the one Act imposed a limitation on suits under the other Act, recently came before the Chief Court of the Panjáb, and was by that Court decided in the negative. The matter is under appeal to the Privy Council, and it would of course be improper to say anything as to its legal value. We think, however, that, for the future, the matter should be expressly settled by law, and it appeared to us that the best course was to impose no limitation on proceedings for a divorce. Our reasons were these. If any period at all were fixed, it would obviously be necessary to fix, as the period at which the time ought to begin to run, the time when the fact came to the knowledge of the injured party. It would be practically impossible to fix that time. A man might entertain a slight though well founded suspicion of his wife's adultery years before he could be said to know it, and if any delay in the proceeding took place, the Court would have to try the question, when the husband first knew of the adultery, as an introduction to the question whether adultery had been committed at all. This result seems absurd. Moreover, any unexplained

delay in suing in such a case would be sure to leave its full weight as evidence of connivance or condonation. The application of these remarks to suits for nullity of marriage and cruelty, is obvious, and need not be pointed out.

"Section 4 provides that suits, appeals and applications barred by the statute 'shall be dismissed, *although limitation has not been set up as a defence.*' The question whether this is so or not under the existing law has been much discussed, and the decisions delivered upon it are not altogether consistent. We have laid down the rule, partly in order to set the matter at rest and partly because we consider it highly important that people should distinctly understand that, if they mean to stand upon their legal rights, they must enforce them in a reasonable time. We received and considered a memorial from the Associated Trades of Calcutta, in which they objected to this rule on the ground that honourable men ought to be permitted, if they chose, to repudiate a discreditable defence. It appeared to us that an honourable man would pay his just debts without being sued; but if a man has just honour enough not to plead the statute of limitations, but not honour enough to pay what he owes unless he is sued, we think his creditors ought to sue him at once. If they do not do so, they must understand that their claim becomes a mere debt of honour. We believe that this provision will contribute considerably to promptitude and business-like habits in the matter of paying book-debts.

Upon section five I may observe, that objection has been taken in some quarters to our having transferred to this Bill those provisions of the Codes of Civil and Criminal Procedure which prescribe the periods within which appeals are to be presented. One reason for doing so is, that section five provides for the case of the Court being closed on the day when the appeal ought to be presented, which the Codes do not. Another is, that section thirteen declares that, in counting the thirty, sixty or ninety days, the day on which the judgment was pronounced, and the time required for obtaining a copy of it, are to be excluded.

The seventh section provides for disabilities. We have been cri[illegible]any a[illegible] several persons who have favoured us with opinions on the Bill, for no[illegible] lim[illegible] by ing for the case of what are called supervenient disabilities. The[illegible]un[illegible]ovid- stands thus. The section provides that, if a person entitled to sue be, at th[illegible] matter when the right to sue accrues, a minor or insane, or an idiot, time is to [illegible]he time run against him after the disability has ceased, 'or (when he is at th[illegible]egin to of the accrual affected by two disabilities) after both disabilities have c[illegible]e time [illegible]t[illegible]eased.'

What, it is said, is to happen if the disabilities supervene, but do not concur? Suppose a right to sue accrues to a minor, who afterwards, and before his majority, goes mad, why should not his right be protected till the end of his madness? The answer is, that such cases will be so rare that it is hardly worth while to make complicated provisions to provide for them, and that, after all, minors have guardians and next friends, and madmen have committees, who can sue in their names.

Passing over several minor alterations in the law, which are specified in the Statement of Object and Reasons, I come to two of considerable importance. They were recommended by two of the High Courts—Calcutta and Bombay—and are, I think, clearly reasonable in themselves.

The first is contained in section twenty, which provides that a promise or acknowledgment in respect of a debt may take the case out of this Act, if it is signed by the party to be charged, or by his agent generally or specially authorized thereto. The present law, no doubt, from an extreme jealousy as to fraud, does not permit a writing signed by an agent to take the debt out of the Act. It seems to us that this is going too far. Business in this country is transacted, to a very great extent, by agents who are generally known and recognized as such, and we cannot understand why a man should not have power to acknowledge the existence of a debt which, beyond all doubt, he had power to contract. It appears to us that, as far as forgery goes, the principal's name is as likely to be forged as the agent's.

In the same spirit, we have permitted the payment of interest on a debt to take the case out of the statute. It appears to us to be altogether monstrous that a man who has regularly paid interest for years on a bond, should be free by mere effluxion of time from the obligation to pay the principal, as he is by the present law. So much is such a law opposed to the common course of business, that one of the mercantile members of the Committee learned for the first time during its sittings that such was the case. We thought, too, that fraud in the payment of interest was far less likely to take place than forgery in a signature.

Part-payment, by the law of England, takes a case out of the statute of limitations. We have not adopted this rule in its entirety, because part-payment is an ambiguous act. If I owe a man £1,000, and pay him £50 as interest, year by year, it is perfectly clear that I treat the original debt as subsisting whenever I make a payment; but if a man says that I owe him £1,000, and proves that I have paid him £200, that is very far from being an unequivocal admission that I owe him the other £800. We have therefore provided that part-

payment shall take the case out of the Act only when in the case of part-payment of principal, the debt has arisen from a contract in writing and the fact of the payment appears in the handwriting of the person making the same, on the instrument, or in his own books, or in the books of the creditor. This addition was suggested by the Chief Justice of Bombay, who informs us that the practices in question are common amongst Natives in that city.

In section twenty, we have provided that all instruments shall, for the purposes of this Act, be deemed to be made with reference to the Gregorian calendar. The object of this provision is to lay down a simple and easy rule, which will save a good deal of trouble and discussion, and will have no other effect than that of slightly extending the period of limitation which would be granted if the computation were made according to the Native years.

Part IV is entirely new, and comprises a part of the law of British India which is at present in a most vague and unsatisfactory state. I refer to the law of prescription—the hourglass in the hand of Time, in Lord Plunket's famous image. The law of British India upon this subject is at present in an absolutely chaotic condition. In the Bombay Presidency, there is a Regulation (V of 1827) which gives, in certain cases, a thirty years' prescription; but in Bengal and Madras there is no law at all upon the subject, though there are several vague and inconsistent definitions of the Courts. They supply an excellent illustration of the necessity of supplying the unavoidable deficiencies of judge-made law by legislation proper. I will, with the permission of the Council, read a passage or two from Mr. Ninian Thomson's book in illustration of this. After giving several pages of decisions on the subject, Mr. Thomson says:—

"The last two decisions would seem to show that proof of uninterrupted user for twelve years is required to establish a prescriptive right to an easement, and that proof of user for a shorter period will not suffice for that purpose."

But he goes on to say—'Mr. Justice L. S. Jackson said, in delivering judgment in another case'—

"It seems to me that cases are quite conceivable in which the plaintiff might not be able to give evidence of actual user for more than four, five or six years, and yet the circumstances might be such that a Court would be warranted in inferring the existence of a right."

In fact, there is no settled law on the matter. The present Bill provides that twenty years' user shall give a prescriptive right to an easement. This term was suggested by the High Court of Bombay, which thought twelve years too little, and thirty years "far too much." It is the English rule in most cases, and

it has this advantage, that, whilst it gives ample time for a protest to be made against the usurpation of an easement, it lies well within living memory and can easily be proved.

I have now to notice a few of the more important matters provided for in the schedule, the general character of which I have already described.

We propose to dispose, under clauses forty-seven and forty-eight, of a question which was much discussed when the Contract Bill was under discussion in this Council some years ago, and which appears to us to belong rather to a law of limitation than to a law of contract. I refer to the right of a person from whom property has been stolen, or who has lost it, to recover it from others into whose hands it may come.

The Council will recollect that it was proposed, in the contract law, to enable any *bonâ fide* possessor of property to make a good title to it, so that, if a thief stole a bullock and transferred it at once to some one who knew nothing of the theft, that person would get a good title to it against all the world. This was strongly objected to, amongst others, by Mr. Brandreth, then a member of the Council, who made a speech on the subject, showing that such a rule would greatly encourage crime, and that it was opposed to the recognized habits and practices of the people of this country. The Committee which sat upon the contract law last year took a similar view, and from a despatch recently received by the Government of India from the Secretary of State, I infer that he consents to the subject being disposed of in accordance with the view of the Council.

We were inclined at one time to think that a certain period should be given to a person who had lost goods by theft or otherwise, during which he might recover them from any person whom he found in possession of them; but that, after that period, any *bonâ fide* possessor should be entitled to retain them. On further consideration, however, it appeared to us that the wisest course would be to permit the true owner to reclaim such property at any time, leaving the possessor to recover against the person from whom he had acquired the property. We have accordingly taken demand and refusal as the time when the period of limitation in such cases is to begin to run, which is practically equivalent to giving no period of limitation. Our reasons for this course were as follows:—

It is obvious, in the first place, that neither the thief nor the finder of lost property has any right at all to the property which he acquires, and the

common theory of law is, that a man who has not got a title cannot give a title. In England, by one of the many anomalies of English law, a person with no title can make one by a sale in market-overt; but this is a most anomalous exception, and the difficulty of introducing it into this country is so great that, practically, the choice lies between enabling thieves to make a good title to stolen goods; imposing a period after which the original owner shall not be able to recover from a *bonâ fide* possessor, and permitting the owner to recover at any time. The first of these courses appears to us to offer a direct encouragement to crime. The second, though not equally objectionable, appeared to me, though not to every Member of the Committee, to be more or less open to the same objection. It makes it necessary for one thing, to draw an arbitrary line, and this might, in many cases, encourage criminals. Suppose, for instance, it were enacted that a man might within three years from the theft recover stolen property from any person, but afterwards, only from the thief, or those who held under him otherwise than in good faith and for value, and suppose that the property stolen were very valuable and small in bulk—jewels, for instance. It would be very easy for the thief to conceal the property for three years, and afterwards to make a good title to it. Then, again, the question—Who is a *bonâ fide* possessor? involves an almost insuperable difficulty as to the burden of proof. Put the burden of proof on the possessor, and the most honest man is in danger of being stigmatized as a thief. Put it on the original owner, and you give security to the most impudent receiver of stolen goods. The person from whom the property was stolen must have a good title. The possessor may very probably be a rogue; but it is very hard for the owner to prove that he is a rogue, and not very easy for him to prove that he is honest, even if he happens to be so. So far, all is in favour of allowing the true owner to recover his property whenever he finds it; but it may be said there is a great hardship on a *bonâ fide* possessor, who is dispossessed of what he purchased at a fair price. On consideration, I think this hardship will be found to shrink to very small dimensions.

If the property stolen is a common article of commerce, the difficulty of identification will, after a moderate lapse of time, effectually protect the *bonâ fide* holder. If it is an article specially and individually car-marked, so to speak, and *e. g.*, it is a valuable jewel—a *bonâ fide* holder would know where he got it, and would be able to recover his money from the person according to what he paid for it, and would be able to identify the seller; but in this case the original owner would find they The real grievance upon the *bonâ fide* possessor could exist in those cases of special in which he bought an ordinary article in the ordinary way of business, especially after a certain lapse of time, equally hard to identify the property against the *bonâ fide* possessor, and after all, if he succeeded in doing so, the

ship of being robbed is greater than the hardship of being overreached in a bargain, and the law ought, I think, to protect men against crime, rather than against breach of warranty of title, if it must choose between the two.

I may observe that the law as to express and implied warranty of title upon the sale of moveable property is in a very unsatisfactory state in England. What "justice, equity and good conscience" would make of the decision of the Court of Exchequer in *Morley* v. *Attenborough* I will not at this moment undertake to say, nor will I describe the characteristically many-sided rule (to use a complimentary term) laid down by Lord Wensleydale's judgment in that case. The matter will be fully considered by the Committee on the Contract Law, which I hope will present a final report soon after the return of the Government to Calcutta.

The next point which I have to mention in the schedule is No. 127, which gives a practically unlimited right to sue to a Hindú excluded from joint family property. The reasons of this are, first, the extreme tenacity with which the people cling to their family property, and, secondly, the fact that individual members of an undivided family will frequently leave their home for many years to work in some other employment, always intending to return when they have an opportunity of doing so. It would be natural to make the time run from the exclusion, but, in practice, no one act amounts to exclusion. A man goes away for a temporary purpose, his share is not paid in order that the property may be released from debt or accumulated, and this is afterwards treated as an exclusion. Often the question substantially at issue is, whether it was an exclusion or not.

The last point to which I have to refer is No. 130 in the schedule. This gives a period of sixty years as the period of limitation for suits by the Secretary of State for India. This is a revival of the old law of Bengal established by Regulation II of 1805, section 2, which was repealed by the repealing Act of 1868. I have some reason to doubt whether the repeal of that particular provision was accidental or intentional; but at all events it appears to be unjust, which I propose that the old law, which in this point agrees with the law of years, and, should be revived.

Probably se, my Lord, are the observations I have to make on this Bill."

The s Honour the LIEUTENANT GOVERNOR would only venture to ex- sums for n one word, his sense of the great obligation under which the country a reducti he Hon'ble Mr. Stephen and those who assisted him in the preparation one-thir Bill. A considerable judicial experience enabled him to state that the sam g harassed both the Court and suitors so much as these questions of

limitation which had been so clearly laid down in the Bill; and therefore he thought that a very great service would be done to the country by the passing of this measure, if it enabled the Courts to get rid of such questions more easily. After the lucid explanation of the leading features of this Bill which the Council had heard from the Hon'ble Mr. Stephen, His Honour was quite sure that neither he nor any other Hon'ble Member of this Council could have any hesitation in taking the Bill on trust. Speaking for himself, he might say that his satisfaction on the passing of this Bill would be without drawback or reserve. The subject was one which was not affected by those local considerations to which he had referred in connection with the Bill for the Registration of Assurances. His satisfaction in regard to that Bill was somewhat mitigated by its putting fetters on the future action of the local legislatures; but in respect of this Bill he had no such feeling, and his feeling in respect of it was therefore one of pure and unqualified satisfaction.

The Motion was put and agreed to.

The Hon'ble Mr. Stephen also moved that the Bill as amended be passed.

The Motion was put and agreed to.

BROACH TALUQDÁRS' RELIEF BILL.

The Hon'ble Mr. Chapman presented the report of the Select Committee on the Bill to relieve from incumbrances the estates of Taluqdárs in Broach.

RANGOON STEAMER SURVEY BILL.

The Hon'ble Mr. Chapman also presented the report of the Select Committee on the Bill to provide for the survey of steam vessels in the Port of Rangoon.

ÁBKÁRÍ BILL.

The Hon'ble Mr. Inglis moved that the report of the Select Committee on the Bill to consolidate and amend the law relating to the Ábkárí Revenue in Northern India be taken into consideration. He said that the Committee had postponed the time for the commencement of the Act in British Burma [illegible]0,000, Coorg till the first April 1872, and, as it was considered desirable to contin[illegible] [illegible]eved to practice of charging a heavy fee for licensing distilleries worked ac[illegible] [illegible]e provision the English method, the Committee had excluded Burma from the oper[illegible]g section twenty-one. The Committee had also provided for the issue of [illegible]n warrants authorizing the search of houses between sunset and sunrise, a[illegible] [illegible]e jails in had inserted provisions legalizing the past levy of Ábkárí duties in Oudh [illegible]llahabad, [illegible] £19,000 [illegible]inished.

The Motion was put and agreed to.

The Hon'ble MR. INGLIS also moved that, throughout the Bill, for 'ábkári' the word 'excise' be substituted, and that

in section 19, after line 1, the following words be inserted :—

"or under a special order from such officer as the Local Government appoints in this behalf."

The Motion was put and agreed to.

The Hon'ble MR. INGLIS then moved that the Bill as amended be passed.

The Motion was put and agreed to.

INCOME TAX BILL.

The Hon'ble SIR RICHARD TEMPLE presented the report of the Select Committee on the Bill for imposing duties on income.

COLONEL the Hon'ble R. STRACHEY said that, in accordance with the intentions of the Government indicated last year to this Council, he proposed to take the present opportunity of explaining the principal features of the expenditure on Public Works during the period to which the Financial Statement recently made before the Council related.

He should first speak of the ordinary expenditure, beginning with that applied to buildings, roads, and miscellaneous works. The actual outlay in 1869-70 was £5,034,000; the regular estimate for 1870-71 was £3,941,000, and the budget estimate for 1871-72 was £2,365,000. But to this last sum had to be added the portion of the provincial grant which was given for Public Works, amounting to £1,400,000, so that the total grant for 1871-72 was, in fact, £3,765,000, or £176,000 less than that of the current year, and £1,266,000 less than the outlay for 1869-70. The causes of this reduction need not now be repeated. The corresponding miscellaneous receipts, actual and estimated, the[illegible] might be fairly taken as a set-off against the outlay, were, for the three India, [illegible]169,000, £118,000, and £110,000, not showing any important change. lines from [illegible]muc[illegible] of this income would be transferred to the provincial funds. other; th[illegible] thence to first head of outlay to be noticed was that for Military Works. The sula Rai[illegible] the three years were £1,449,000, £950,000, and £1,013,000, showing Peninsul[illegible]on, next year, on 1869-70, of about £430,000, which was rather more than recovered of the whole reduction. The grant for the next year was approximately while the as that for the current year. He should not make any further remarks

on this item, as all that was necessary would presently be said by his Hon'ble friend General Norman.

The next main head was Civil Buildings. The outlay for all India for the same periods would be £680,000, £518,000, and £151,000. But the last named sum does not include the provincial grant, the appropriation of which rested with the Local Governments, and was not yet before the Government of India. The comparison, therefore, was necessarily imperfect. It might be explained that the grant remaining under this head in the imperial budget was for buildings appertaining to the Government of India and the departments it directly controls—the Mint, Post Office, and Telegraph; henceforth all other buildings would be provided from the provincial funds. The sums required for repairs of buildings during the three years, and subject to the same modification in the last year, were £104,000, £121,000, and £21,000, leaving £576,000, £397,000, and £130,000 for the construction of new buildings.

The actual and proposed application of these sums included the following. At Madras, four jails took £26,000 in 1869-70, and £12,000 in 1870-71, the total estimated outlay being £139,000. On Court-houses and other buildings, about £84,000 was spent in 1869-70. At Bombay, the new Government House near Puna, on which £120,000 had been spent to the end of 1869-70, including £23,000 in that year, received a further grant of £18,000 in the present year, and was still not completed. Public offices at Bombay, estimated to cost £166,000, received £35,000 in 1869-70, and £30,000 in the following year. The University building and Elphinstone College, together estimated at £100,000, on which £43,000 had previously been spent, obtained £15,000 in the former, and £10,000 in the latter year. In Bengal, the Calcutta High Court-house, estimated to cost £177,000, on which £118,000 had been spent, received in the two years £20,000 and £40,000. The Calcutta Post Office, costing in all £61,000, was completed with an outlay of £4,000. The University building, estimated at £36,000, on which £26,000 had been spent, received £3,000. The Museum, estimated at about £80,000, on which £40,000 had been spent, obtained £7,000. For this building, a special grant had been made from the current year of £4nise of which, it was hoped, might suffice to complete it, as the design was b,000, and be susceptible of considerable reduction without interfering with the ug as the of what accommodation was essential. rear. In

In the North-Western Provinces, £10,000 was spent on four larg 1869-70, and £8,000 given in the next year. The public office at Al ks, that estimated at £126,000, on which £116,000 had been spent, received -70 was and £10,000 in the two later years. These buildings were now nearly

In the coming year, the grant under this head provided for the Post Office at Bombay £22,000, Telegraph Offices at Bombay £20,000, and at Madras £10,000. Also £30,000 for a branch railway of twenty-three miles to Patrí on the town of Katch, from the Bombay and Baroda line, required for the special purposes of the salt revenue; and £5,000 for a College building at Ajmír, a foundation for the support of which institution had just been established, at the suggestion of the Viceroy, by the liberality of the Chiefs of Rájputána.

The next principal head was Communications, *i. e.*, roads and improvement of navigable rivers. The amounts were £1,047,000, £821,000, and £116,900 for the three years. Of these sums, no less than £413,000, £440,000, and £34,000 were absorbed by the requirements of repairs, leaving £634,000, £381,000, and £82,000 for new works. The grant for the last year, as before, excluded the provincial grant, and was applied as follows:—For the Godáveri works, £35,000, the past expenditure having been £666,000 before 1869, in that year £56,000, and in 1870-71 £39,000, or a total of about £760,000. The course to be followed in continuing these operations had recently been under the consideration of the Government of India. The last estimates received appeared to show that, to carry out this scheme in the most economical shape would call for a further outlay of little less than £500,000, and it had become a serious question whether such an expenditure could be recommended. Very great differences of opinion had been expressed as to the probable value of these works, though unfortunately their great cost was an assured fact. Whatever were the result of the present re-consideration of the subject, it was but right to say that the Government of India had consistently objected to the outlay on the scale that had been permitted, and that it had been the result of the direct orders of former Secretaries of State, acting on information not supplied by the Government of India, and on recommendations not made by it.

The rest of this grant for 1871-72 was for roads in Central India and Rájputána, and there had been given, in the three years under notice, for some of the chief lines in Rájputána, £43,000, £27,000, and £29,000, and in Central Extra £44,000, £28,000, and £23,000. The main roads thus aided were the be special Agra *viá* Ajmír to Mhow, in one direction, and Ahmedábád in the tha rive t from Agra *viá* Gwalior to Indore; and that *viá* Jhánsí to Nowgong and and a pr Jabalpúr; that from Banda *viá* Saugor to the Great Indian Peninprepared way; and that from Indore to Khandwá, also on the Great Indian the oth a Railway. A proportion of the above sums was eventually to be Govern d from some of the States of Rájputána and Central India, but meanWeste e needful funds were advanced by the British Government.

The other works of this class that had been in course of construction during last year and that now expiring, were the Coast road between Madras and Bengal, on which about £20,000 was spent last year; that from Dhárwár, in the Bombay Presidency, to the new port of Cárwár, for which £27,000 had been given in the two years, besides £92,000 before spent; that from Belgaum to the West Coast at Vingorla, for which £26,000 was given in the two years, besides £100,000 previously spent; the completion of the Barrákar bridge in Bengal, which had cost about £135,000; the main line of road in Assam, which received £22,000 with a previous outlay of £110,000; other roads in Assam £10,000; the Cuttack and Pooree Road meeting the Madras road before mentioned, £27,000, in addition to £167,000 previously spent; the Patna and Gya Road, which had £36,000, with £84,000 previously spent; bridges on the road to Dárjíling, £12,000; roads to the new hill stations of Ráníkhet and Chakráta in the North-Western Provinces, £44,000, in addition to £34,000 before spent, and £25,000 given for next year; the bridge over the Kanhan river, between Nágpur and Kámptí, in the Central Provinces, £32,000, in addition to £45,000 before spent; the road from Nágpur to Raipur, £20,000, for which £20,000 had been presently spent; the Rangoon and Prome Road in Burma, £42,000, in addition to £40,000 before spent; the main line from Maulmain southward, £9,000, on which £52,000 had been spent; in Oudh the road from Byrámghát to Baraitch, £19,000, on which £23,000 had been spent. Besides the above, there were many smaller grants for less important lines of road.

Under the next main head, Miscellaneous, the outlay and grants were £76,000, £45,000, and £26,000 in the three years. Under this head appear the Madras Pier, receiving £19,000 in the two former years; and the Karáchi harbour works, receiving £23,000, £27,000, and £25,000 in the three years respectively, in addition to a previous outlay of £293,000. These last named operations had been the subject of much controversy. They were in progress under the sole engineering responsibility of Mr. Parkes, who was virtually only controlled in a financial sense by the Indian Government. The work now going on consisted of dredging on the bar at the entrance of the harbour, and for a new break-water to cover the entrance that would be opened by the ai as the dredge. Though he had no reason, and no desire, to express any mist the local engineering practicability of these operations, he might be allowed t could be personal doubt of their financial expediency. He considered that th ls on it, of Karáchi might with great propriety have been left alone for m a toll at to come, and he very strongly contested the policy of laying out large money with the expectation of creating ports. He thought all ex lay, the shewed that such attempts to force commerce commonly failed, and he ombay

that the only prudent policy, particularly for a country so poor as India, was to apply available means to assisting trade that existed, by adding gradually to the conveniences it demanded.

The next main head of charge to which he should refer was that for Establishments. This amounted, for the three years, to £1,093,000, £984,000, and £573,000, the last year being, as before, reduced on account of the transfer to provincial. The chief items were as follows; but now, to admit of better comparison, he included the charge to be transferred to provincial in the coming year, and the cost of establishment employed on Extraordinary Public Works. The cost of the officers employed on duties of supervision stood at £220,000, £213,000, and £226,000. The increase in the last year was due mainly to the change recently made in the scale of salaries. The officers employed on executive duties, with their subordinates, stood at £974,000, £911,000, and £897,000. The accounts of the department cost £72,000, £72,000, and £74,000. The next item concerned the Irrigation Canals, chiefly of Upper India, and shewed the special charges for collecting the Canal Revenues; the figures were £39,000, £59,000, and £65,000. The increase was partly due to improved accuracy in distributing the charges, partly to increase of irrigation. The last head was the Civil Engineering Colleges, amounting to £18,000, £19,000, and £19,000. These sums included the whole cost of the fixed establishments; those employed on the works carried out with extraordinary funds, as well as those constructed with ordinary funds, with local funds, and, in the last year, provincial funds. The transfers due to the causes above-named would reduce the total amount chargeable against the ordinary grant to the sums first named.

He might add that the Government of India was not satisfied that a reduction of the controlling establishments of this department had been made in due correspondence with the reduction of expenditure on works, and this question was now under careful consideration. The great increase of outlay on Irrigation Works and State Railways, however, necessarily led to additions to the Engineer-
fur tablishments, and these additions would continue to take place for some
and come.
capital
remaining items of the ordinary grant, Tools and Plant, and Expendi-
money ngland for Stores, called for no special remark.

It
the above review, he had purposely omitted the ordinary expenditure
ment
he head Agricultural, for the purpose of bringing it into juxtaposition
he wa
e outlay for like objects under Extraordinary.
satisfa

The Agricultural outlay was practically entirely for irrigation works and embankments. The total amounts for the three years, charged as ordinary, were £435,000, £423,000, and £455,000, of which, in the several years, £286,000, £276,000, and £324,000 were for maintenance and repairs, excluding the establishments, which, as the accounts were now kept, could not be shown separately. Neither could the revenue obtained in connexion with this outlay be at present properly stated. That part of the income of the irrigation works of the country which was now exhibited separately in the public accounts was a small portion only of the whole amount received, and was of no value at all as an index of the real utility of the works. Steps were now being taken to remedy this defect, and it might be hoped that, at an early date, a trustworthy account would be procurable. Partial accounts of the works of Upper India had long been prepared; but even these were incomplete and not properly comparable one with another. Of other parts of India, no such accounts at all had hitherto been drawn out. The principal difficulty in obtaining these accounts lay in the fact that the returns from irrigation were in many cases so blended with the ordinary land-revenue that nothing but an arbitrary separation was at present possible. He need not say how it was proposed to meet this difficulty, but it was not insurmountable; and the importance, or, he should perhaps say, the absolute necessity, for having such accounts as he spoke of was so pressing, that somehow or other the difficulty *must* be solved.

The sum remaining under the head Agricultural Ordinary, after providing for maintenance, was small, and it applied to the construction of minor works. It amounted to £146,000, £143,000, and £125,000 in the three years. The details of the expenditure, actual and proposed, were of no special interest.

Although he had said that the irrigation revenue shown in the accounts gave no real test of the profits due to this class of works, the principal figures might be mentioned, to show the direct revenue obtained in this manner, for the three years under notice, in the Provinces of Bengal, the North-Western Provinces, and the Panjáb. For Bengal, in which irrigation in Orissa was in beginning, the sums were £5,500, £18,500, and £35,400, giving a fair proas on success. In the North-Western Provinces, we had £324,000, £246, and, £253,000, the fluctuations depending on the season, the income risic n of the rain-fall failed, but being due partly to recovery of arrears in the first ls to be, in the Panjáb, we had £198,000, £200,000, and £200,000. nportant

He would next refer to the extraordinary outlay on irrigation wor was, the sum provided from borrowed funds. The actual outlay in 1869 matter t being

£2,007,000, including £1,092,000 paid to the East Indian Irrigation Company for the cession of their works and projects in Orissa and Bihár. The residue of the outlay, £915,000, was distributed as follows:—to Madras £118,000, to Bombay £130,000, to Bengal £388,000, to North-Western Provinces £169,000, and to Panjáb £101,000. The details of these sums might conveniently be spoken of in connexion with the estimates of the outlay in the following years.

In Madras might be specified the Godavery works, which received, for extensions, £16,000, £20,000, and £56,000; the Kistna works, for extensions, £19,000, £10,000, and £21,000; the Cauvery works, £1,000 in 1869-70 and £29,100 in 1871-72; the new Tambrapúrní project in Tinnevelly, £36,000, £22,000, and £20,000; the Madras water-supply reservoir, £27,000, £15,000 and £11,500. In Bombay and Sindh, the new Shadadpur Canal from the Indus, at Sukkur, £10,000, £7,500, and £1,600; the Bigárí Canal from the Indus, £4,000, £5,000, and £7,500; the new Moota reservoir near Puna, £73,000, £100,000, and £100,000; the Ekrook reservoir, £24,000, £16,000, £9,000.

In Bengal, the Orissa works took £28,000, £140,000, and £193,000; the Bíhar or Soane works, £71,000, £130,000, and £164,000. In the North-Western Provinces, the Ganges Canal extensions, £60,000, £30,000, and £34,000; the new Agra Canal, £69,000, £80,000, and £90,000; the new Eastern Ganges Canal, £14,000, £500, £40,000. In the Panjáb, extensions of the Bárí Doáb Canal, £26,000, £40,000, £82,000; the Western Jamna Canal, £15,000, £60,000, £83,000; the new Sirhind Canal, £42,000, £73,000, £156,000. In Oudh, preliminary operations on the Sardah Canal, £9,000, £9,000, £85,000.

In all cases, the figures for the last year represented a mere budget estimate, which no doubt would, in most cases, be in excess of the actual outlay.

This list of works included most of the new projects for irrigation canals in a forward position. But some were not set down which called for special notice. Among these were two or three projects for works in the Madras Presidency, of rai ich were likely to be matured soon and brought within the scope of the about five ordinary grant. In Bombay and Sindh, were several projects, of which might mile, and lly named one for a canal from the Indus at Rohrí on the left bank of about £2 er, likely to cost $1\frac{3}{4}$ million; various schemes for works in the Deccan, accomplis oject for a canal from the Taptí. In Bengal, various projects had been d, including two of special importance, one for a canal from the Damuda, Havier for canals from the Gandak, both of which had been before the respect tment of India, but had been returned for reconsideration. In the North-condition n Provinces was a project for a second canal from the Ganges in the

This completed the review of the operations of the Public Works Department, other than those relating to Railways. In dealing with these last, he would first speak of the guaranteed lines. The charges which the Government had to bear in relation to these undertakings, as the Council might be aware, consisted of the following separate items; first, the making good of the guaranteed interest on the capital paid up and in the hands of the Secretary of State, or spent on the works; next, the loss by exchange on the capital spent in India, to make good the difference between the rate of exchange adopted for the Government transactions between the Secretary of State and India, and that fixed in the contracts with the Companies; and, lastly, the Government outlay for the provision of land which it was bound to give free of charge, and for the cost of the Government controlling establishments. It might also be noticed that, as the Government lost on the exchange on capital spent in India, so it gained at the same rate on the net earnings which were accounted for to the Companies at the contract rate in London. The results of the three years under consideration were as follows, the two last again, it was to be remembered, being only estimates.

The gross guaranteed interest was for 1869-70, £4,176,000, for 1870-71 £4,407,000, and for next year £4,639,000, showing a steady increase. The net earnings of the lines were, respectively, £2,629,000, £2,531,000, £2,782,000. The fluctuations of income were, it might be supposed, due to the condition of the people and the trade of the country. Such fluctuations, and even greater ones, must be anticipated as the operation of these works continued. The variations would necessarily be, in a great measure, proportional to the absolute receipts, and with a gross income that already reached more than six and a half millions, and would next year be seven millions, and charges of more than half that amount, a variation from year to year of £200,000 or £300,000, or more, would, he thought, not be uncommon, and should be anticipated. This, of course, required increased attention to be given to the progress of the income and working expenses of the railways, or serious financial inconveniences might be occasioned to the Government, which was, in truth, the banker of these vast undertakings. He specially referred to this to explain the justification which the Government had for insisting the best possible system of accounts being adopted by the Companies. moreover, a system which should be in harmony with the account syster Government itself. The net charge for guaranteed interest was seen the three years, £1,547,000, £1,876,000, and £1,857,000, showing an in increase of charge in the last two years.

The high and increasing charge under this item was, he thought, a for serious attention, the burden in these two last years on this accoun

the heaviest that had been yet thrown on the revenues of India. Thus, though railways had now been in operation for twelve or fourteen years, the growth of income had failed to keep pace with the growth of charge due to the expansion of the capital outlay. The Government of India had for some years past been alive to the grave importance of not permitting this growth of the guaranteed railway capital, and every endeavour was being made to check it. But the outlay still continued on a very large scale, having been in 1869-70, £5,120,000, and being extended, for the current year, at £6,850,000, and for next year at £3,820,000, being at the rate of more than five millions a year. There was, in his opinion, an absolute obligation on the Government to restrain the expenditure of capital under guarantee still more closely than had yet been done, and if this was not done, it was plain that some serious financial complication might arise. He would add that he knew nothing so really deserving of being called a cause of anxiety in relation to Indian finance as the guaranteed railway system.

The charges due to Loss by Exchange, Provision of Land, and Controlling Establishments, had been £310,000, £222,000, and £235,000; this, so long as the large capital outlay continued, could not be obviated.

Thus, the total gross charge against the revenue of the year for Railways had been £1,857,000, £2,098,000, and £2,092,000, which last also, he thought, were the highest charges ever yet incurred.

The set-off given by the gain by exchange gave £254,000, £244,000, and £258,000, thus reducing the net outlay for Railways to £1,603,000, £1,854,000, and £1,835,000 respectively.

The total capital under guarantee, expended to the end of 1869-70, was £83,444,000, which would be increased to more than nine millions at the end of this month. The net receipts gave as nearly as possible three per cent. on this sum, leaving two per cent. to be paid from the revenues of India. The whole length ...way, some of it being double line, which the above outlay included, was ... thousand miles, showing an average cost of no less than £18,000 per ... requiring an average gross income of £1,800 per mile per annum, or ...5 per week, to cover the guarantee. How far this was from being ...ned would appear from the figures he would presently give.

...ing thus stated the general financial result of these undertakings in ... the revenues of India, he proceeded to make a few remarks on the ... and prospects of each line.

The East Indian system, including the Jabalpúr line, was now open throughout, with a length of 1,501 miles, and total capital of about thirty millions. This was certainly the most prosperous Indian Railway, the average surplus profits on the main line, in excess of the guarantee of interest, being about £65,000 in the favourable half of the year, a small deficiency still, however, having to be made up in the unfavourable half-year on the main line, and a large deficiency in both half-years on the Jabalpúr line. The gross revenue of this system was now close upon three millions sterling, and the working charges were about £1,400,000. The receipts, therefore, were about £2,000 per mile per annum, or not far from £39 per week, which compared favourably with European lines.

The next in importance was the Great Indian Peninsula system, now open for 1,257 miles, and a total capital of twenty-one millions. About fifteen miles only remained to be opened at the end next the Madras Railway. The gross revenue of this railway was a little less than two millions. It did not now earn the guaranteed interest. The gross receipts were about £1,600 per mile per annum, or £31 per week. The necessity for reconstructing a large number of the masonry works of the railway had led to a serious addition to the capital outlay, which had thrown this undertaking back in its financial character. The income must increase more than thirty per cent. to cover the guarantee.

The Madras Railway, with a total length of 834 miles, and capital outlay of ten millions, had just been opened right through, and the connexion with Bombay would very shortly be completed, the only break being a single bridge on the Great Indian Peninsula Railway over the Kistna River, which was not likely to be finished at the earliest till 1872. The gross income of the Madras lines was about £600,000, or £720 per mile per annum, or not quite £14 per week. This railway did not nearly cover the guarantee, paying about three per cent., this good result being due to the small capital outlay.

The Panjáb, Sindh and Delhi Railways were now amalgamated, with a [illegible] length of 662 miles, all open, and a capital outlay of nine and a half [illegible] The gross income would be hardly over £500,000, with working charg[illegible] £350,000. The gross income was about £750 per mile per annum, [illegible] week. The heavy working charges left a very small net profit, which [illegible] one and a half per cent. on the capital, and the burden for guarante[illegible] was heavy.

The Indus Flotilla should be noticed in this place as a part of th[illegible] Sindh and Delhi undertaking. The capital was about three quarte[illegible]

and the net earnings from two to three per cent. This was one of the most unfortunate of the guaranteed undertakings, and would almost necessarily, in the end, involve a total loss to the State, the whole capital being thrown on the Government of India, with very little set-off against it.

The Bombay and Baroda line of 307 miles, capital seven and a half millions, earned also about £500,000, with working charges of £330,000, giving an income of above £1,600 per mile per annum and £31 per week. The heavy working charges threw this railway back greatly, and made it also a serious burden on the revenues of India. It earned net two per cent. on the capital.

The Eastern Bengal line, open for 157 miles, capital two and three quarter millions, yielded about £270,000, or £1,700 per mile per annum, or nearly £33 per week. This line nearly paid the guarantee, and would probably soon give a surplus.

The Great Southern of India, 168 miles, one and a half million capital, was a cause of considerable loss, earning only about two per cent. on the capital outlay, although the cheapest broad gauge line yet constructed in India.

The Oudh and Rohilkund system, of which only 42 miles were yet open, included a total length of 706 miles, of which about 500 were now under construction, and not likely to be completed till 1873.

These guaranteed undertakings had certain extensions in progress. The Madras Railway was making a branch to the foot of the Neilgherry hills, twenty-five miles in length, which could hardly ever pay the guaranteed interest. The Great Southern of India was about to carry out an extension to Tuticorin at the end of the Peninsula, of 210 miles, which, if constructed on the broad gauge, would also almost certainly be a permanent source of charge. The new Carnatic Company had a project under guarantee for about 100 miles to Cuddalore, which equally was almost certain to lead to a permanent charge, if constructed on the broad gauge. The Bombay and Baroda Company had an extension, from Ahmedábád to Wudwan, of 77 miles, from which the advocates of the line expected good results. He confessed that he had no such belief, and anticipated increased charge for interest. He considered that the Bombay and Baroda Railway was worked on the necessarily fatal idea of competing with the sea-borne traffic. The railway was carried round the circumference of a circle, while the sea-trade could pass over the diameter. He was quite satisfied that such a competition could only end, as it began, with failure, and that, under the circumstances of this railway, it should be continued and worked with the express intention of facilitating the sea-trade, and not of opposing it.

He might add that, speaking generally, there was every reason to be satisfied with the working arrangements of the Indian Guaranteed Railways. On the whole, reasonable economy was aimed at, and in some cases very good results were secured. The real difficulty in these railways, as in all others, indeed, arose from the capital outlay, which was now beyond control, and with it the burden it necessarily involved for all time.

And this led him to draw attention to the great financial distinction that subsisted between the system under which capital was supplied for the construction of railways in India and in England. In the last-named country, the money was advanced at the sole risk of the shareholder, and the undertaking, when completed, was carried on, so to speak, quite apart from the results of the return given on the first outlay. The shares in the property were dealt with simply in respect to their power of producing income, and the original shareholder was very soon quite dropped out of sight. But an Indian railway was a very different affair. Here, the Government was in fact the sole shareholder. The whole capital had to be provided, not only at the risk of the Government, but the Government had actually to pay interest on it, whether it was earned or not. Under such a system, it was practically impossible to go on making railways that would not pay. At the present moment, the general tax-payer was contributing £1,800,000 sterling every year to save the customers of the Companies from the charge which the railways actually caused, and which by rights ought to be wholly paid by those customers. For this was the true meaning of the entry, in the Budget Estimate of the year, of the charges for Railways. That the State might properly give a contribution of this sort to admit of the introduction of railways into the country, was readily admitted; but that it should deliberately permit the construction of lines on a scale that necessarily prevented their paying, and necessarily led to the revenues being permanently charged for providing a means of transport to individuals, was utterly indefensible. Take, for instance, the Port Canning line. It had cost £600,000, and the yearly charge for interest was £30,000, which was paid, year by year, in hard coin, the State not only receiving no part of it back from the income of the line, but also contributing something in addition to cover the excess of the cost of working over the gross income. Of course, it would be said that, when this line was undertaken, nobody could say whether it would pay or not. This might be some excuse for that expensive blunder; but to continue the construction of lines of railway at a cost which experience distinctly proved to be so great that the income likely to be obtained for many years could not nearly pay the interest on capital, was a wilful seeking for misfortune which it was impossible to justify or excuse, when the truth was once distinctly pointed

out. It was in consequence of having adopted these opinions that the Government of India had been forced to the conclusion, that to continue the construction of railways in India on the old scale of cost was quite impossible, and that a great reduction must be made in some manner or other, or the extension of railways must stop.

The Council was aware that the course which the Government had determined to follow with this intention was, to abandon the old broad gauge of five feet six inches, and to adopt, for the extensions now proposed, a gauge of three feet three inches. It was not necessary that he should go into the detailed reasons that led to fixing this particular dimension. It would suffice if he said that he felt confident that the result would be to provide railways which, for the traffic they would have to accommodate, would be in every respect as convenient as the broad gauge lines, while their first cost would be hardly more than half of that of the cheapest lines hitherto made on the five feet six inches gauge; less than one-third of the average cost of all the existing lines, and, probably, about one-fourth of the cost of the more expensive lines. While the new railways would almost certainly be thus cheap of construction, their powers of earning revenue would not be less than that of any existing line, comparing, of course, single lines with single lines, and the result, it might be hoped, would be to make these railways self-supporting after a very few years. By doubling such a narrow gauge line, he felt confident that, at a first cost of hardly more than that of the cheapest five feet six inches gauge line, a railway could be provided that should meet the demands of any traffic that could arise in any part of India for a century to come.

Having given these general explanations as to the causes that had led to the adoption of a narrow gauge for the greater part of the new lines of railway now being undertaken, he would proceed to mention what these lines were, and the outlay on them likely to take place during the coming year, and that had already taken place. In 1869-70, £191,000 was spent; for 1870-71, the estimate was £351,000; and for next year, £1,647,000. The greater part of the outlay in the earlier year was for surveys and preliminary operations.

First, he might mention the Lahore and Pesháwar line. The total distance between these places was 270 miles; but only the section to Ráwalpindí (173 miles) had been authorised, and of this the portion to Jhilam (102 miles) was under construction. Delay had unavoidably arisen from the doubts that existed, till quite lately, as to the gauge, which had now been fixed at three feet three inches. The outlay in 1869-70 was £143,000, about £23,000 having been previously

spent; the estimate for this year was about £200,000; and for next year, £498,000. The opening of this line would mainly depend on the erection of the three bridges over the Raví, Chináb, and Jhilam, the designs for which were being prepared in England, and which cost about as much as all the rest of the work put together. The complete estimate for the line had not yet been furnished, so that it was not possible to say precisely what outlay was likely to be necessary, but it would, from the difficulties of the country, probably be not less than £10,000 per mile, when reduced to the utmost compatible with security. The railway would be carried along the great line of road, and an important saving would be thus effected.

The next line was that from Multán towards Sindh. The survey and designs for this were in course of completion. The outlay for next year was extended at £205,000. The whole length of this line of the Indus Valley was about 500 miles from Multán to Kotri. The portion now under survey was the northern section to Rokree, 300 miles. No decision had yet been come to as to the location of the lower section, whether it should be on the right bank of the Indus, crossing at Rokree, or on the left bank, crossing at Kotri. A special enquiry was now going on with a view to settling this question. This line, too, would be narrow gauge.

The next lines were those of Rájputána. This system, as at present proposed, included a line from Agra to Ajmír, *viâ* Jaypúr and Sámbhar, of 236 miles, and another from Delhi *viâ* Rewári and Ulwur, to unite with that just named, in length 125 miles, besides a short branch to salt-works of seven and a half miles. The surveys and estimates of these lines were well advanced, and works were in progress between Delhi and Rewári, which section might be opened early in 1872. These also would be narrow gauge lines. It was hoped that a satisfactory arrangement might be made for giving the execution of the Agra and Jaypúr section of these railways to a contractor, it being quite consistent with the policy of the Government to accept the aid of contractors when it could be done with due economy.

The estimated outlay on these works was £49,000 in the current year, and £578,000 next year. The outlay in 1869-70, was £50,000, but of this £41,000 was for the old surveys, the charge for which was reimbursed to the Bombay and Boroda Company.

The Indore Railway, joining Indore with the Great Indian Peninsula Railway at Khandwa, was about 84 miles. Surveys for this were well advanced, and the line had been practically settled. It had been a difficult task, and had

resulted in obtaining a line which gave a worst gradient of one in 40 for about three and a half miles, beyond which there was nothing worse than one in 100. The outlay for the current year was taken at £16,000, and for next year at £187,000. The funds for this line, to the extent of one million sterling, would be provided by the Mahárájá Holkar, who lent the money to the English Government at four and a half per cent., thus obviating any call on the English money market.

A survey for the extension of this line beyond Indore towards Ajmír was also in hand, for which £15,000 was provided in next year's budget.

A survey and approximate estimate for a line from Wurda on the Great Indian Peninsula Railway *viá* Hinganghát to Wurda in the Central Provinces' coal-field, about 45 miles, had also been prepared, and the project thus far had been generally approved by the Government of India, subject to the orders of the Secretary of State. The details would now be worked out. The great importance of the coal in the Central Provinces and Birár was every day becoming more strongly established, and the necessity for providing railway communication to the pits was apparent. For this line £50,000 was allowed for next year.

The survey of a line from Dhárwár to Kárwár was also going on. The difficulties to be overcome were great, and no specific conclusion had yet been reported by the Government of Bombay, under whose orders the operations were being carried on. The distance was about 60 miles from Kárwár to Hubli, but further extensions would no doubt be a necessary part of any project for such a railway. For this, £14,000 was taken this year, and £15,000 next year. The actual outlay had already been £6,000.

A survey had been in progress on the north of the Ganges lines towards Assam and Dárjíling, which was still under the consideration of the Government of India, having been submitted but a few weeks ago.

A survey and estimate had also been prepared for the line between Morádábád and Rámnagar at the foot of the Kumáon Himalaya, which formed part of the system of the Oudh and Rohilkhund Company. Possibly, this line might be carried out on a narrow gauge by the Government, instead of by the Company; but no decision was yet come to on this point.

A survey had also been carried on to ascertain the best mode of connexion between Morádábád at the end of the Oudh and Rohilkhund system with the

Delhi Railway. No conclusion, however, had yet been come to on this subject.

A preliminary survey had also been prepared for a railway from Rangoon to Prome, 166 miles, to be constructed for the most part on the existing cart-road, on which a large outlay had been incurred. This project was likely shortly to be sent to the Secretary of State for his consideration. The approximate estimate amounted to about £900,000.

Permission had also recently been given to carry out a survey for a line from Nágpúr towards Raipúr, and an arrangement had been suggested by the Chief Commissioner of the Central Provinces, under which the financial liability likely to arise from the construction of such a line might be met.

This concluded the enumeration of the railway projects going on under the Government of India.

But it was satisfactory to know that the enlightened Government of the Nizám co-operated cordially in the prosecution of the Railway to Haidarábád. The whole of the line was now settled, in length about 116 miles, and the works had been actually begun. Some delay had arisen in arranging the terminal stations for Haidarábád, Sikandarábád, and Trimulgherry; but a satisfactory settlement of this had been come to, and the Minister, Sir Sálar Jang, continued to exhibit his usual excellent disposition in his dealings with the British officers employed on the surveys. This line was to be of the old standard five feet six inches gauge, the Haidarábád Government having specially desired it. The whole cost of this railway was to be borne by the Haidarábád Government, as was explained last year. The estimated outlay next year was £275,000.

In the Birárs, another short branch of the Great Indian Peninsula Railway had been opened to Umráoti, five and a half miles, and its eminent utility had already been established. The Khámgáon line, seven and a half miles, continued to work satisfactorily. These lines had both been constructed from the revenues of the Birárs.

Lastly, he had to mention the surveys going on in Mysore. These had led to the general approval by the Government of India of a line from Bangalore to Mysore, on a three feet three inches gauge, the distance being somewhat less than 100 miles, and the probable cost between £400,000 and £500,000. The prosecution of the work, however, was contingent on satisfactory financial

arrangements being made as to the supply of the needful capital, and likewise on the approval of the Secretary of State being obtained.

From the remarks that had fallen from him, the Council would, he was assured, see that the Government of India felt most strongly the serious responsibility it incurred from the policy it had adopted of carrying great works of improvement by aid of borrowed funds. Having trespassed so long on the Council, he would only now say that the question of special precautions to prevent any risk from these transactions had recently been under the consideration of the Government of India, and that it was the intention of the Governor General in Council to address the Secretary of State on the subject. Among other precautions, he might refer in particular to the necessity for obtaining exact accounts of all the transactions in question, and giving complete publicity to all that concerned them.

A few words might be said of the Telegraph Department, which had, during the year now expiring, been placed under the direction of this Department. The cost, actual and estimated, of the Telegraph Department, for the three years, had been £553,000, £537,000, and £516,000, set-off by receipts of £257,000, £226,000, and £245,000, and shewed, therefore, a net charge of £296,000, £311,000, and £271,000. There was a small improvement, but the financial results must be characterised as essentially unsatisfactory. The first step in the way of reform would be to establish an improved system of account, by help of which the administration might be conducted with a precise knowledge of all the elements of income and charge, in the absence of which, of course, intelligent control was impossible. Measures had been taken to commence this change of system, and its results would, he hoped, before long be exhibited in the financial consequences. The highly intelligent officers of this Department would, he felt certain, be among the first to realise the advantages which might be obtained by closer attention to this side of their operations. He should add that a very large reduction had been carried out during the year now expiring in the establishments of the Persian Gulf and Persian lines, which, when fully realised, would lead to an important economy of not less than £12,000 a year.

If the statement that he had thus made to the Council, of the operations of the Public Works Department, had appeared tedious, he must plead as his excuse their vast magnitude, and the necessity that had been imposed on him to compress so much into so short a space. In order to complete his review, and to indicate more clearly the extent of the amounts which would have to be con-

trolled by the Government of India in this Department during the coming year, he would now specify the amounts in question.

They were as follows :—

Ordinary Expenditure		£	2,365,000
Provincial Public Works Expenditure		„	1,400,000
Total Ordinary ..		„	3,765,000
Railway State outlay ...	£ 235,000		
Guaranteed interest ...	„ 1,857,000		
		„	2,092,000
Grand Total Ordinary		„	5,857,000
Extraordinary		„	3,626,000
Total Imperial Expenditure		„	9,483,000
Expenditure in Birár		„	88,000
„ in Mysore		„	150,000
„ in Haidarábád ...		„	275,000
„ in Foreign States ...		„	513,000
Total Direct Expenditure		„	9,986,000
Railway Expenditure—			
Guaranteed Capital in India ...		„	3,060,000
Working charges in India		„	3,909,000
Total Railway outlay		„	6,969,000
Public Works Income, Ordinary ...		„	110,000
„ „ Irrigation ...		„	496,000
„ „ Railway ...		„	258,000
Total		„	864,000
Railway Receipts		„	7,006,000
Grand Total Income		„	7,870,000
Local Funds by Public Works Officers		„	519,000
„ „ Civil Officers ...		„	477,000
			996,000

Making a grand total of all transactions of £25,821,000.

When it was considered that the Public Works Department was only organised in 1854, and that the great bulk of the business which it had been his duty to explain to the Council this morning had been entirely created since that time, and that these operations extended over an area as large as that comprised in many States of Europe thrown together, he confessed that it appeared to him

rather a matter of surprise that it had done so much, and that its failings had been so few, than that it had not done everything, and that its operations had not been infallible.

MAJOR GENERAL the Hon'ble H. W. NORMAN said,—"MY LORD, In a speech in this Council last year, your Lordship said that you considered it would be advantageous if the Members of the Government, in immediate charge of particular Departments of expenditure, gave the Council each year some information as to the course of expenditure in their respective Departments.

"It seems to me that there can be no doubt of the advantage of such a practice, for though this Council would not be a fitting assembly in which to discuss questions of military organization, I think that the Legislature which authorizes the levy of taxes for the public service should possess information as to the purposes to which those taxes are applied.

"I shall, therefore, proceed to lay before the Council a statement regarding our military expenditure. I will endeavor to make it as brief as possible; but as this is the first occasion on which any such statement has been made, I am afraid that I cannot compress it into the space within which it may be possible to submit the statements of future years.

"The military expenditure for 1870-71 in India was estimated in the Military Department at twelve millions five hundred and forty-nine thousand pounds, but on a review by the Executive Government, and as certain reductions were thought likely to come into operation during the year, the budget was fixed at twelve millions four hundred and ninety thousand pounds. The receipts were estimated at seven hundred and thirty-three thousand nine hundred pounds. The larger reductions anticipated did not take place, for they depended upon an expected decision of Her Majesty's Government which was not received, but other savings were made, and such a general watchfulness over the expenditure was exercised, as to justify a final estimate of twelve millions three hundred thousand pounds for 1870-71. Before the actual submission of this revised estimate, orders were received from the Secretary of State to adjust three hundred and eighty-two thousand pounds on account of the Overland Transport Service, being for charges incurred during the last four years, and which, it was understood in India, were to have been finally accounted for in England. This has unexpectedly brought up the Military revised estimate in India for 1870-71 to twelve millions six hundred and eighty-two thousand pounds. The receipts originally estimated at seven hundred and thirty-three thousand nine hundred pounds, are increased in the revised estimate to eight hundred and fifty-four

thousand pounds; of which £14,000 are expected from the adjustments for the Transport Service corresponding with the arrear expenditure of £382,000 brought forward on the other side of the account, leaving a net expenditure in India, according to the revised estimate, of eleven millions eight hundred and twenty-eight thousand pounds—the smallest sum, as already stated by the Hon'ble Sir R. Temple, expended on the Army Service since 1857, if we do not reckon the arrear charges for the Transport Service which really appertain to the accounts of several prior years.

"To this has to be added the regular estimate for the Military Service in England, amounting to three millions six hundred and seventeen thousand pounds, less forty-nine thousand pounds for receipts, leaving a net military expenditure in England of three millions five hundred and sixty-eight thousand pounds, or a total net military expenditure in England and India of fifteen millions three hundred and ninety-six thousand pounds, being one hundred and forty-nine thousand pounds more than the actuals of 1869-70; but omitting the adjustment on account of the Overland Troop Service, there would have been a saving of two hundred and nineteen thousand pounds, notwithstanding the large quantity of stores obtained from England consequent on alterations of armament.

"For the coming year, 1871-72, the estimated military expenditure in India is twelve millions four hundred and ten thousand pounds, and the receipts eight hundred and five thousand pounds, leaving a net estimated expenditure of eleven millions six hundred and five thousand pounds—a smaller expenditure than that of last year, and therefore the smallest since the mutiny, although a new charge of sixty thousand pounds is inserted for the cost in India of the Overland Transports. The expenditure in England is estimated at three millions five hundred and seventy-four thousand pounds, and the receipts at fourteen thousand pounds, making a total net military expenditure in India and England of fifteen millions one hundred and sixty-five thousand pounds, being £231,000 less than the revised estimate for 1870-71.

"The items of expenditure in India for the coming year 1871-72, as compared with the budget estimate for 1870-71, are as follows:—

Army and Garrison Staff, £496,916, a decrease of £2,600.

"The amount of this grant has been increased, to the extent of £10,000, by the establishment of a system of garrison instruction ordered from England; but this increase is more than counterbalanced by the abolition of the Karáchí

and Chinsurah Depôts, which the overland transports have rendered unnecessary, and by some minor items.

Administrative Staff, £211,925, an increase of £1,145.

"There are various minor reductions under this head, but these are counterbalanced by the transfer, under orders from the Financial Department, of certain charges from the Civil to the Military estimates.

Regimental Pay, Allowances, and Charges, £6,481,992, being a decrease of £111,000.

"The grant for 1870-71 was unduly reduced in anticipation of reductions that did not take place, but a portion of these anticipated reductions (that is in the Artillery) have now been effected, and provision is still made for reductions in the Native Army, which, we are aware, have been sanctioned by the Secretary of State, though we do not know their exact shape and extent. There are also some savings by the absorption of supernumerary officers of British Cavalry and Infantry, and by the withdrawal of bounty on re-engagement.

Commissariat Establishment, Supplies and Services, £2,212,912, being a decrease of £55,635.

"This is owing principally to some reduction in cattle; to the withdrawal of five Batteries of Horse Artillery; to reduced provision for transport by railway and by water in all the Presidencies; to its being found possible to reduce the reserve stock of tea in Bengal; to a reduction of elephant keddah operations; to a smaller quantity of rum being purchased in Madras; and to some savings in Commissariat establishments in Bombay; and a reduction in the expense of supplying condensed water at Aden. On the other hand, there are items of increase especially in the cost of provisions for European troops in Bengal, and for compensation for dearness of provisions to Native troops and followers in Bengal and for purchase of rum, the stock of which has run low.

Stud and Remount Establishment, Supplies, and Services, £216,471, being a decrease of £20,745.

"This decrease arises from a limitation of the purchase of reserve stock in the Bengal studs and of Army remounts in Madras and Bombay, consequent on reductions in the mounted branches, and after allowing for the purchase of two hundred remounts in Bengal.

Clothing Establishment and Supplies, £113,264, being an increase of £9,026.

"This increase arises from serge clothing being issued to the European troops in 1871-72, with certain money compensation in Madras and Bombay, the latter being due in Bengal for 1872-73. Then again, the department has to bear the cost of making up cloth clothing for issue in 1872-73, the cost being greater than that of making up the serge clothing in 1870-71. The biennial allowance for wicker helmets also falls due in 1871-72, and some provision has had to be made to enable Bombay to start the system of making up clothing on the departmental system, as in Madras and Bengal.

Barrack Establishment and Supplies, £377,591, being an increase of £10,169.

"Under this head, a new source of expenditure appears, amounting to ten thousand pounds, for cost of gymnastic stores and apparatus: in Bengal a larger provision is necessary for trestle cots and barrack furniture and supplies, but there has been a decrease in these items elsewhere, and also in subordinate establishments and lighting charges.

Administration of Martial Law, £45,685, being a decrease of £784. A mere ordinary fluctuation.

Medical Establishments, Supplies and Services, £460,150, being a decrease of £2,869.

"There has been a decrease in the cost of medical store depôts in Madras, and a reduction in the cost of Lock-hospitals in Bombay, but an increased number of medical officers in Madras.

Ordnance Establishment Supplies, and Camp Equipage, £502,528, being an increase of £29,831.

"In all three Presidencies, increased provision is required for Ordnance stores and for the manufacture of gunpowder and ammunition, the latter particularly in Bengal.

Ecclesiastical, £21,830, being an increase of £439. An ordinary fluctuation.

Education, £36,960, being a decrease of £2,641.

"The decrease arises from the provision for a medical officer of junior rank for the Lawrence Asylum at Sunawar, the absence on furlough of the Superin-

tendent of Army Schools at Madras, and a diminished payment to the Educational Society at Bombay.

Sea Transport Charges, £194,750, being an increase of £60,520, due to the charge for Overland transports brought on the Indian estimates for the first time, but some of the other items vary.

Volunteer Corps, £12,503, being an increase of £2,636, owing, I am happy to say, to an increased number of Volunteers.

Miscellaneous Services, £377,081, being an increase of £430.

"There have been minor savings under many of the heads of this grant, but they are counterbalanced by provision to the extent of ten thousand pounds for camps of exercise in Bengal. The miscellaneous services include the following items:—

"Donation to Officers' Widows' Fund, British Troops, and to the European Female Orphan Asylum; cost of Derajat Frontier Militia; gratuities to discharged native soldiers; compensation to native troops and followers in Madras and Bombay, for dearness of provisions;* compensation for dearness of forage for horses of native cavalry; for payments made to purchase regimental retirements, and for loss of command and staff allowances; allowances to officers and men on passing in the native languages; travelling allowances to officers and men; subsistence allowance to children of deceased pensioned soldiers, &c., and certain other small items.

"The remaining charges are for non-effective services and are as follows:—

Rewards for Military Services, £116,540, being a decrease of £1,067.

Retired Officers in India, £13,290, being a decrease of £ 1,835.

Military Pensioners, £585,147, being a decrease of £4,467.

Widows' Pensions and compassionate allowances £18,646, being an increase of £7,517.

Superannuation Pensions £18,489, being a decrease of £451.

"No remark seems necessary on these items, save that there is a considerable increase in one item, owing to the recent transfer of the pensions of the widows on Lord Clive's Fund from the Home to the Indian estimates.

* These charges are defrayed through the Commissariat in Bengal.

"The gross expenditure in India therefore shows a *decrease* of £80,000, compared with the budget estimate, and of £272,000, compared with the regular estimate, of last year.

"The estimated Home military expenditure for 1871-72, as compared with that of 1870-71, is as follows:—

Home charges for Her Majesty's Regiments serving in India, £698,000, an increase of £38,000.

"Furlough Allowances of Indian Officers, £450,000, an increase of £66,000.

"Passages of Officers and Troops, £93,500, increase of £16,500.

"Overland Transport Service, £320,000, an increase of £100,000.

"Miscellaneous, £19,000, decrease of £10,000.

"Stores for India, £824,720, increase of £39,676.

"To the Imperial Government on account of retired pay of troops serving, or having served, in India, £224,000, an increase of £10,500.

"Retired pay of Indian Officers, including Colonel's allowances, £750,000 the same as last year.

"Lord Clive's Fund Pensions, £129,800, a decrease of £200.

"Charge to India for cost of absorption of supernumerary Ensigns, £48,000 a special charge.

"Gratuities to Officers of late Indian Regiments on retiring, £17,000, an increase of £11,000.

"I do not think that any very useful purpose would be gained by a lengthy comparison of the expenditure of each year since the mutiny. In fact, up to 1862-63, the expenditure consequent on the mutiny had not fairly ceased, and since then, various alterations have taken place which would vitiate comparisons; for, although there has been a reduction of troops, and some charges have been removed from the military expenditure (such as the Hyderabad Contingent and Survey Department) others have been added, while prior to the year 1866-67 the charges for stores from England were made in the Indian, and subsequently in the English estimates.

"The total expenditure, however, in England and India in each year since 1862-63, when the reductions subsequent to the mutiny first really took effect,

has been as follows. In giving it, I will read a brief analysis of the causes of alterations in each year, as prepared by Mr. Kellner, now so usefully employed in the Military Accounts Branch.

"The enclosed tabular statement exhibits the actual and estimated military expenditure in India for ten years, from 1862-63 to 1871-72, the number of officers, the established strength of the European and Native Army, the number of horses and guns, in each year. That statement may be usefully considered in connection with the Budget of the ensuing year 1871-72.

"The expenditure proceeded evenly in the first two years of the series, having been— **1862-63-64**

	In 1862-63.	In 1863-64.
In England	£ 2,144,737	£ 2,075,935
In India	„ 12,853,636	„ 12,697,069
	14,998,373	14,773,004

"In 1864-65 it increased by more than three-quarters of a million sterling, owing chiefly to the Umbeyla campaign, the transfer of the Derajat Frontier Militia to the Military Department, and the large outlay for stores necessitated by the rigid economy of previous years. There were other causes of increase, *viz.*, the revised scale of staff salaries, increased rates of family allowance to the European Army, increased pay to the commissioned grades of the Native Army, increased rates of hutting money, and the grant of good conduct pay to Native Soldiers after shorter terms of service. The strength of the European Force in India in 1864-65 was as follows:— **1864-65**

	£
England	2,292,683
India ...	13,494,467
	15,787,150

16 Brigades Royal Artillery with 104 Batteries, representing a strength of	12,944 men
11 Regiments of Cavalry, each 515 strong	5,665 „
55 „ Infantry, each 919 „	50,545 „
TOTAL ...	69,154 men

There were also a Battery of local Artillery, the Eurasian Battery, and one local Company of Infantry in Bengal, besides the Sappers and Miners, and the Invalid and Veteran Establishments.

"The expenditure of the year 1865-66 exceeded even that of the previous year by nearly three-quarters of a million sterling, of which half a million was due to the Bhootan War, and to the famine in the Madras Presidency. The other causes of increase were the abolition of half batta **1865-66**

	£
England	2,432,968
India ...	14,360,338
	16,793,306

rates of pay, the grant of good service pensions to Officers, and of higher rates of pay to Medical Officers; the re-organization of the Native Army in Madras, and the grant of cantonment batta to Native Troops on furlough; the appointment of a second doing-duty officer with every Native Regiment at the three Presidencies. The increase of expenditure would have been greater in this year, but that seven Light Field Batteries were broken up, two Heavy Field Batteries converted into Garrison Batteries, and two regiments of British Infantry sent home.

1866-67

	£
England	3,385,508
India	12,440,383
	15,825,891

"The effect of these reductions is seen in the expenditure of 1866-67. The causes of extraordinary expenditure in the previous years had then also ceased. Moreover, one British Infantry Regiment was withdrawn from Madras in this year, the remaining 52 Regiments were reduced by sixty privates each, and the Cavalry Regiments by fifty-six troopers each, a Regiment of Native Cavalry in Bombay was broken up. The only notable increase of permanent charge was in the revised scale of administrative Medical Staff, and the formation of the Governor's Body-Guard at Bombay. In this year also, the charges for stores from England were transferred to the Home estimates, those for the Topographical and Trigonometrical Surveys having been transferred in the previous year to the Civil estimates. The accounts for 1866-67 include the expenditure of eleven months only.

1867-68

	£
England	3,499,829
India	12,603,467
	16,103,296

"The Abyssinian Expedition was organized in the end of 1867-68, but did not appreciably affect the accounts for that year, considerable charges having fallen, by the delays of audit, into the accounts of 1868-69. A permanent extra charge upon the State, of one-third of a million sterling, was imposed by the addition of 2*d.* a day to the pay of every European Soldier, and an additional penny a day for the second term of service, with bounty and compensation for clothing. At the same time, the Military Estimates were relieved of the charges of the Haidarábád Contingent, and the cost of malt liquor for the troops was transferred to the estimates of the Secretary of State. The Military Estimates were also relieved of the cost of three Garrison Batteries, consequent on the transfer of the Straits Settlements to the Crown. The Battery of local Artillery in Bengal was reduced.

1868-69

	£
England	3,280,016
India ...	12,989,566
	16,269,582

"The increased expenditure in 1868-69 is due mainly to the Abyssinian Expedition and the Hazára Campaign. The other causes of increase were the formation of a troop of Cavalry at Aden, the addition of forty men to each of the Punjab Frontier Regiments of Infantry, the additions to the strength of Native Regiments in Bengal and Bombay in connection with the Abyssinian

Expedition, the Sanitary Commissions at the three Presidencies, and the grant of bonus compensation to officers. The reductions during the year were the withdrawal of the equipment and establishment from three Heavy Batteries, leaving them as Garrison Batteries, and the breaking up of the Assam Native Mountain Battery. The Military Department was further relieved of the charges of two Batteries of Royal Artillery, one Regiment of Dragoons, and two of Infantry, for the interval between their departure from Abyssinia to England, and the arrival in India of the reliefs; but, on the other hand, the accounts of 1868-69 had to bear, as already observed, a portion of the charges of the previous year connected with the Abyssinian Expedition.

"The expenditure was reduced in 1869-70 by the withdrawal of two regiments of European Cavalry and two of European Infantry, by the abolition of the Eurasian Battery of Artillery, by diminished outlay for stores, and by absorption of the augmentations made in the previous year in the Native Army. The increase observable in the receipts for 1868-69 and 1869-70 is due mainly to the sale of stores in connection with the Abyssinian Expedition.

1869-70	£
England	3,500,990
India ...	12,828,750
	16,329,740

"The full effect of the reductions ordered in 1869 was realized in the current year, 1870-71, when the following further changes were carried out:—

1870-71	£
England	3,617,200
India ...	12,682,800
	16,300,000

* Reduction of one Troop and two Companies in Regiments of European Cavalry and Infantry in India.
* Reduction of the Native Artillery in the three Presidencies.
* Abolition of the second line of waggons in Batteries of Royal Artillery.

Reduction of the Governor General's Body-Guard.

Reductions in the Divisional, Brigade, and Army Staff.

Reductions in the Army Departments.

Abolition of the Karáchí and reduction of the Chinsurah Depôt.

Reduction of the Local Company of Infantry in Bengal.

Limitation of purchases of yearling and reserve stock in the Stud Department.

"There were considerable incidental savings from the effective strength of the Native Army having fallen below the established complement, also in Commissariat expenditure in all three Presidencies, in Barrack expenditure at Madras

* I would remark that the reduction of two Companies in Regiments of European Infantry caused no numerical decrease; that a sufficient force of Native Artillery was retained for the purposes for which this branch is needed; and that the second line of waggons was placed in store in the nearest Magazine.—H. W. N.

cholera, and the death-rate of British troops throughout Bengal only amounted to an average of 21½ per thousand. It would have been much less if fever had not been so rife in certain districts. I have not seen the returns from Madras and Bombay, but believe they will prove generally favorable.

"The stations with least mortality in the plains were Muttra, where the deaths were only at the rate of 5½ per thousand, Shahjehanpore 6½, Seetapore 7½, Roorkee 9½, and Fort William 12½, as compared to the hundred per thousand of former days. Excluding small detachments, the deaths were highest at Jabálpúr, where they amounted to 40 per thousand, Peshawur 33 per thousand, and Morar 32 per thousand.

"At the hill stations the deaths averaged 11 per thousand, and at the hill convalescent depôts, composed of men who had suffered from sickness, 22½ per thousand.

"The Government is fully sensible of the advantage of having troops in the hills, and two admirable hill stations are being pushed on to completion—those of Chukrata and Rancekhet; but it is not intended to give up important strategic points, or to remove men from good barracks in healthy stations in the plains, though, even from these, convalescents and working parties may go to the hills annually. The employment of working parties has been most successful in every respect, and during last hot season no less than 1,170 men were so employed to the benefit of their health and general efficiency, and also to great public advantage in other ways. During the coming hot season we hope to have a total of 6,438 men in the hills in this Presidency, and a large number of the remainder will be well housed at healthy stations in the plains. We have commenced the formation of an experimental hill sanitarium at Puchmurree in Central India, of which high expectations are formed, and which is well placed for the reception of men from several military stations.

"Having alluded to the arming and sanitary condition of the troops, I would add that the means of moving them are not neglected. Notwithstanding the facilities afforded by railway and steamer, the large amount of cattle, I referred to earlier, are maintained and considered necessary; for however useful railways may be, they are liable to be interrupted, and at all events will not enable troops to operate away from them.

"This establishment of cattle provides for moveable columns, completely equipped, at various selected points. These columns aggregate 23,000 men of all arms with 72 horsed guns. For the other troops only a small establishment is maintained, for here, as in other countries, armies moving must in the main depend on what can be obtained from the country, though the

nucleus we maintain is, I suspect, far larger than the transport establishment any other nation maintains in time of peace.

"The maintenance of this carriage will also greatly facilitate the formation of camps of exercise, so much and justly desired by the Commander-in-Chief, and for which a grant of ten thousand pounds has been allowed for 1871-72.

"I have already trespassed far too long on the time of the Council, but there are two smaller departments, or branches of departments, which I may be supposed to represent.

"I allude to the Military branch of the Public Works, and to the Marine Department, but I shall hope very briefly to say all I desire regarding these sources of expenditure.

"In Military Public Works expenditure has been very greatly reduced, and it is to me a matter of regret that more funds cannot prudently be applied during the coming year to certain more important works, principally connected with the shelter of the troops.

"The actual expenditure on military works in the year 1869-70 was £1,501,150, of which £203,705 was for repairs.

"In 1870-71 the expenditure, according to the regular estimate, is £950,000, of which £210,350 is for repairs.

"In 1871-72 the estimated expenditure is £1,012,500, but in this are included items for the hydraulic lift dock at Bombay, and for buildings in the Kidderpore Dockyard, aggregating £23,980, which, though no doubt correctly classified as Military, according to Public Works rules, I can hardly accept as such, even though the Bombay dock may be expressly intended for the reception of the Overland troop transports.

"I will not detain you by a minute statement of the various items that go to make up this sum, but it may be divided under the following heads :—

Fortified posts or works	...	...	...	£	34,330
Manufacturing buildings	...	...	..	„	107,636
Accommodation for troops	...	...	...	„	416,932
Military roads ...	...	...	...	„	29,000
Works for water-supply	...	..		„	19,600
Alterations and minor works	...	...	.	„	162,600
Repairs	...	...	...	„	216,665
Marine works and repairs	...	...	...	„	25,737

"Under the first head, that is, "fortification," the largest item is £15,000 for the Bombay harbour defences.

"A vast sum has already been spent on these works, and the Government of India has only provisionally sanctioned the expenditure of £15,000 on works that cannot well be stopped. No more will be allowed for this project until a selected Officer of Royal Engineers, well versed in approved systems of modern fortification, has been obtained from England, and has submitted a report and a detailed project of a moderate description.

"The other principal works connected with fortifications on which sums are sanctioned in 1871-72 are—

£5,000 for works at Rangoon.
£7,000 for the redoubt and magazine at Thyetmyo.
£7,300 for the fortified post at Trimulgherry (Secunderabad.)

"For manufacturing buildings, there is the rather large expenditure of £107,636, but it is for works most urgently required.

"The main items under this head are as follows:—

New Arsenal Buildings, Cartridge Factory, and Powder Works at Kirkee, £40,920.
Cossipore Foundry Works, £28,560.
Ishapore Powder Works, £12,859.
Snider Factory, Dum-Dum, £20,000.

"The principal works for the accommodation of troops to which sums have been allotted are at Belgaum, Ahmednuggur, Mount Aboo, Karáchí, Chukrata (hospital only), Raneekhet for cottage barracks, Allahabad, principally for Royal Artillery, Rawul Pindee, Peshawur, Dugshai, Subathoo, Jullunder, Balloon (Dalhousie), Murree Convalescent Depôt, Mooltan, Saugor, Jabálpur, Fyzabad, Neemuch, Nusseerabad, Mhow, Fortress of Gwalior, Morar and Nowgong. To each of these places amounts of more than £5,000 have been allotted, and to some of them a far larger sum, and in a few of the cases sums are allowed to stand, though estimates have not yet been sanctioned. No work is allowed to commence, however, in anticipation of sanction.

"Special work is also going on at the experimental hill station of Puchmurree, which will have to be met by transfers from other grants, some of which, it is believed, will not be wanted.

"The charge for roads includes £29,000 for the cart roads to Chukrata and Raneekhet. These are classed as military roads, but will no doubt be largely used by the general community, and the Raneekhet road will, it is hoped, greatly open up the tea and iron districts of Kumaon.

"The items for water-supply works are £10,000 for the Kussuf project at Aden and £5,000 for Peshawur. The latter is a most essential work, and will, we trust, tend, when completed, greatly to reduce the sickness at that place.

"In a very important Resolution by the Government of India, issued on the 14th December last, it was laid down that for the future, in places where the climate is in general dry and healthy and the soil light and readily drained, there was no objection, on sanitary grounds, to single-storeyed barracks erected on well-raised basements, and it was stated that much inconvenience had been caused to the soldiers, and expense and difficulties had arisen in working punkahs and tatties, owing to the arrangement of dormitories and dry rooms in different floors. It was, therefore, resolved that, save at exceptional stations in damp climates and low-lying localities, the rule of 1864 should no longer be in force, by which it was laid down that 'double-storeyed barracks in which the upper floors only are used as dormi-'tories, and the lower ones as dry rooms and for auxiliary purposes, should be 'adopted, as a rule, in all parts of India.'

"By the new rule, it is believed that the comfort of the soldiers will be increased, and additional accommodation be given in barracks already completed, or that are well advanced, which may be valued at about £200,000 for 1,500 men.

"I do not think there is anything more to be said with respect to the expenditure on military works, but I am decidedly of opinion that the present system by which local Civil Governments deal primarily with the proposals for allotting money to military works is faulty, and that it would be a great improvement, and one which, I trust, will ere long be initiated, that the allotment of grants for all military works should be made, at all events as far as the Bengal Presidency is concerned, by joint consultation with His Excellency the Commander-in-Chief and the Military and Public Works Departments of the Government of India.

"There remain the Marine charges which were specially referred to by my hon'ble friend Mr. Chapman. These charges are not in their nature so susceptible of reduction or of check by the Supreme Government as the Military charges, and must practically, to some extent, be dependent on the supervision of the Local Governments. These Governments have been enjoined to exercise strict economy in their Marine estimates, and various reductions have been effected. In fact, as I stated on this day week, the difference between the expenditure of the Marine Department in India as estimated for

1870-71, and the sum now shown in the regular estimate for that year, is more than £50,000. At the same time, it must be recollected that the purchase of a single vessel in any one year largely deranges the Marine estimates, and vitiates comparisons. As before 1868-69 the Marine Department was not connected with the Military Department, I do not propose to say more with reference to past years than that in 1870-71 the estimated Marine expenditure was £784,100, of which £307,924 was to be incurred in England and £476,176 in India. The regular estimate has increased the former to £311,700, an increase of nearly £4,000, while it has decreased the latter, or Indian expenditure, to £422,000, a reduction of £54,000; but as the receipts in India are estimated at £272,100, the net expenditure in India was only £150,000.

"For 1871-72 the Marine expenditure is estimated at £777,800, or £6,700 less than the budget estimate of the current year. Of this, £290,700 is for expenditure at home. This provides for £70,000 for the cost of six ships of Her Majesty's Navy serving in the Indian seas; £168,000 for stores for India; £50,000 for pensions,—I presume mainly for members of the old Indian Navy; and £2,500 for furlough pay. There is a considerable increase for stores, but a decrease of £66,000, paid in the previous year towards the cost of iron-clad monitors for Bombay.

"The estimated expenditure in India is for £487,100, but the receipts are estimated at £237,900, leaving a probable expenditure of £249,800.

"The transition state of the Marine Service on the other side of India renders comparison between this year and last impossible, for the Indian vessels have not yet been reduced, while the Royal Naval vessels are already out here, and though the payments for these vessels are made in the home estimates, cost of coal and repairs will be an Indian charge, and for a time swell expenditure.

"The Bombay Government has been requested to carry out all possible reductions consequent upon the arrival of the Royal Naval vessels, and to submit a carefully considered report of the permanent wants of that Presidency under the new arrangements, by which all military naval duties in these seas devolve on the Royal Navy.

"This will no doubt actually reduce the expenditure in Bombay, and in Bengal a considerable reduction has been effected, but I am not prepared to say

that we are incurring a very large Marine expenditure in India, considering that it provides for the following items :—

"All the charges connected with the Master Attendant's Department, the Dockyard, the Pilot Vessels and Pilot Service; Steamers, Yachts, River Surveys, for this port and for rivers in Bengal; various charges for the Mutlah, which, however, are greatly reduced this year; cost of all Marine establishments, including that of Light Ships and Lighthouses in British Burmah; cost of River Steamers in the Punjab; the Master Attendant's Department at Madras; and very heavy expenses for the Marine establishments at Bombay, in the Persian Gulf, at Aden, and Karáchí, besides one lákh of Rupees for vessels employed on the Telegraph service, and also a charge of Rs. 27,000 for Marine Pensioners at Bombay, as well as provision for the new monitors for the defence of the Bombay harbour.

"Of these, as already observed, we hope to effect a considerable reduction in the Persian Gulf as soon as the entire relief of Indian vessels is effected by the ships of Her Majesty's Navy, for which we now pay, and I entertain a strong conviction that the Marine expenditure for 1871-72, if no unforeseen circumstances arise, will bear a very favourable comparison with that of previous years.

"I have now gone through the expenditure of the three branches of the public service of which I have more immediate charge, and I fear I have greatly wearied the Council. I can only plead the magnitude of my subject, and I promise that if I again have the honour to submit statements of this kind, they shall be more brief than those I have today offered."

His Excellency THE COMMANDER-IN-CHIEF said that every one must concur in appreciating the very valuable resolution which His Excellency the Governor General in Council had adopted of making public the statements which they had heard today, and the Council were very much indebted to Colonel Strachey and General Norman for the extremely clear, and, HIS EXCELLENCY might say, admirable, statements which they had laid before the Council. They embraced a vast number of subjects, far too enormous for him to advert to at the present time. But HIS EXCELLENCY would take the next available opportunity in Council, when the Financial Bills came on, to make some remarks on those branches of military expenditure which came within his own special province, and he hoped that the statement that he would make would explain to the public and reconcile them to such military charges as perhaps they did not at present perfectly understand. HIS EXCELLENCY alluded more especially to the charges on account of the shelter, comfort,

ordinary education and amusements of soldiers. He would also make some remarks regarding the necessity of having military protection for every part of the country; a necessity which had been exemplified to them, recently, in letters of blood and flame more pressing than any arguments and words.

CUSTOMS DUTIES BILL.

The Hon'ble SIR RICHARD TEMPLE also presented the report of the Select Committee on the Bill to amend the law relating to Customs Duties.

FINANCIAL COMMISSIONERSHIP (OUDH) BILL.

The Hon'ble MR. STRACHEY introduced the Bill to abolish the Financial Commissionership of Oudh.

The Hon'ble MR. STRACHEY having applied to His Excellency the President to suspend the Rules for the Conduct of Business,

The President declared the Rules suspended.

The Hon'ble MR. STRACHEY then moved that the Bill be taken into consideration. He had already explained the object of this Bill. The Government had come to the conclusion that the time had come when the Financial Commissionership of Oudh might be abolished without any inconvenience to the public, and a considerable saving of money might, perhaps, be gained. It was proposed to enable the Government to transfer to the Chief Commissioner and to the Courts of the Judicial and other Commissioners of Oudh the duties which were now performed by, and the cases that were brought forward in, the Financial Commissioner's office.

It was explained, on a former occasion, that the Bill only professed to be a temporary measure. It was stated that the existing law in regard to the constitution of the Oudh Courts was in anything but a satisfactory state; that the law was extremely obscure, and that there was no doubt that a new Courts' Bill would soon be required. That, however, was a matter which would require careful consideration, and the present Bill was merely intended to enable us to tide over a temporary difficulty.

The Hon'ble MR. STEPHEN said he proposed to take this matter into consideration as soon as the Council arrived at Simla, when an Oudh Courts' Bill would be prepared and introduced.

The Motion was put and agreed to.

The Hon'ble MR. STRACHEY then moved that the Bill be passed.

The Motion was put and agreed to.

LOCAL RATES (OUDH) BILL.

The Hon'ble MR. STRACHEY also presented the report of the Select Committee on the Bill to provide for the levy of rates on land in Oudh.

The Council adjourned to Monday, the 27th March 1871.

WHITLEY STOKES,
Secy. to the Govt of India.

CALCUTTA,
The 24th March 1871.

Office Supdt. Govt. Printing.—No. 151.—8-4-71.—220.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Government House on Monday, the 27th March 1871.

PRESENT:

His Excellency the Viceroy and Governor General of India, K. P., G. M. S. I., *presiding.*

His Honour the Lieutenant Governor of Bengal.

His Excellency the Commander-in-Chief, G. C. B., G. C. S. I.

The Hon'ble John Strachey.

The Hon'ble Sir Richard Temple, K. C. S. I.

The Hon'ble J. Fitzjames Stephen, Q. C.

The Hon'ble B. H. Ellis.

Major General the Hon'ble H. W. Norman, C. B.

Colonel the Hon'ble R. Strachey, C. S. I.

The Hon'ble F. S. Chapman.

The Hon'ble J. R. Bullen Smith.

The Hon'ble F. R. Cockerell.

The Hon'ble J. F. D. Inglis.

The Hon'ble D. Cowie.

The Hon'ble W. Robinson, C. S. I.

INCOME TAX BILL.

The Hon'ble SIR RICHARD TEMPLE moved that the report of the Select Committee on the Bill for imposing duties on income be taken into consideration. As the Council was aware, Friday next had been named for the purpose of discussing this Bill, but owing to an event which he regretted—the departure of their hon'ble colleague, Mr. Cowie, for Europe—the day for such discussion had been changed, as that hon'ble gentleman had two amendments to bring forward. The Government was anxious that these, and the Bill itself, should have the fullest discussion in Council, and that the Hon'ble Member should be present and give to the Council the benefit of such advice or remarks as he had to offer. After referring to certain technical alterations in the Bill, which had been

suggested by the Select Committee, SIR RICHARD TEMPLE proceeded to read the amendments, which were as follows :—

"That to section 1 shall be added the words 'and it shall cease to be in force on the thirty-first day of March 1872, except as to taxes then due and penalties incurred thereunder.'

"Also that, in section 7, for the words 'sixty-two rupees eight annas,' the words 'eighty-three rupees, five annas, four pie' be substituted.

"Also that, in section 17, for the words 'seven hundred and fifty,' the words 'one thousand' be substituted."

With regard to the first amendment, he had to announce that the Government had decided to accept it and to take the tax as lasting for one year. But in doing so, he wished it to be clearly understood that they did not make the slightest pledge, or enter into the slightest understanding, that the tax would not be continued if it was considered necessary to do so. If such a necessity did arise, and he should consider it his duty to bring in a fresh Bill, he would not shrink from doing his duty then, as he had not shrunk from doing it now. It was not possible to say whether such necessity would not arise; he could not see the future: but one thing certain was, that deficit would not be allowed. He did not hold, however, that the continuation of the income-tax should depend on the question of a deficit. There were other taxes which he considered should be remitted before the income-tax: there was the salt-duty, which pressed severely in certain parts of India; the inland sugar-duties, and certain export-duties on agricultural products. He thought that the question of abolishing the income-tax should be considered with these. When the income-tax was introduced into England, it led to great fiscal improvements, and he thought that it had the same effect here. For instance, there was the scheme regarding the assignments to Local Governments, which was a great fiscal change, and, he believed, improvement. SIR RICHARD TEMPLE read extracts from the late speeches of Messrs. Strachey and Ellis, condemnatory of the export-duties, and advising their abolition in preference to parting with a light income-tax. He also referred to the Viceroy's statement at a previous meeting of Council, regarding the permanency of the present tax. In making the present concession of accepting Mr. Cowie's first amendment and allowing the Bill to cease to be in force on the thirty-first March 1872, there was not the slightest change intended in the policy of the Government. He wished due notice or warning to be taken that he made no kind of pledge whatever regarding the remission of the tax. It had been stated that he had

introduced the tax as a permanent measure from a fear of criticism. He did nothing of the sort. Criticism was the very last thing he was afraid of. On the contrary, he courted criticism, for he believed that the more there was of fair and honest criticism in the Council and out of it, the better and brighter would appear the financial policy of the Government.

With regard to Mr. Cowie's second amendment, he would at once state that the Government on this point could not yield. The first amendment involved no question of finance; this did. He was happy to hear any discussion upon the question, but yield he could not. In the first place, the amendment would involve a loss of money. Now, the Government could not afford to lose one fraction of estimated revenue. Already, the reports from the opium districts were not very favourable, and the state of exchanges was not so satisfactory as was anticipated from the close of the war. He considered that there was no necessity to raise the minimum of assessment, so that the tax should not touch incomes lower than Rs. 1,000 per annum. He held that a Native on Rs. 65 a month was just as well off and as able to pay as the lowest class in England on which the tax there fell. He denied that the Government were wanting in care or sympathy for the poorer Natives, said to be suffering under inflictions caused by this tax. There was not a complaint in the Native papers upon this head, which had not been translated and laid before the Members of Council, and the result had been that the minimum income to be assessed had been raised to incomes of Rs. 750 per annum. He could not possibly raise it higher.

SIR RICHARD TEMPLE concluded by referring to a remark of Mr. Strachey's, that a light income-tax might be made a source of strength; he thought that true of the present tax, which had enforced rigid economy in all the departments, and for this alone, if for nothing else, deserved well of the public.

The Motion was put and agreed to.

The Hon'ble MR. COWIE moved that to section 1 shall be added the words "and it shall cease to be in force on the 31st day of March 1872, except as to taxes then due and penalties incurred thereunder."

He must offer his thanks to his Lordship in Council for the very courteous consideration which had enabled him to bring these amendments before the Council today. The Hon'ble Sir Richard Temple's statement to the effect that he consented to the limitation of the income-tax for one year, had given him great satisfaction, though it had, in common parlance, taken the wind out of his sails in respect of amendment No. I. But, as his amendments rested on one common basis, he craved permission to say a few words. That basis was his

earnest belief that the income-tax was oppressive, was irritating, and ought to be abolished.

The Executive Government appeared to have decided that it should not be abolished, and, this being the case, he contended that we were bound to endeavour to limit the opportunities of oppression and irritation as much as possible, in respect of duration of the tax and of the area to which it was applicable. But we had been lately told in this Council that it was entirely erroneous to attribute this bad character to the income-tax, and that the evidence of its having been so oppressive in its working was grossly exaggerated. Twelve months had not elapsed since they heard in this Council Chamber an income-tax denounced as "odious to the country, unsuited to the people, and very poor in its return: properly only a war-tax, and to be reserved for great emergencies." These pregnant words were those of that wise and deeply lamented statesman, Sir Henry Durand, who, in uttering them, said, he was only endorsing the recorded opinion of His Highness the Mahárájá of Jaypúr. These two eminent authorities, then, viewing the question from two such totally different standpoints, came to the same conclusion, and it was wholly adverse to the perpetuation of an income-tax. Where, he might ask, is the great emergency in this case? The Finance Minister had only to be a little more sanguine in his estimates of opium, and the Public Works Minister a little less sanguine in his proposals for outlay, and an equilibrium would be established without any income-tax whatever. Now, with reference to the words which he had quoted from last year's debates, when he heard, in the present year, similar sentiments uttered by such experts as the Hon'ble Messrs. Robinson, Inglis and Cockerell, re-echoed in every newspaper throughout the country, he was compelled to believe in their truth, rather than in the positive, if not Parliamentary, contradictions of the Hon'ble Mr. Strachey. But they were told that some of the export-duties and sugar transit-duties had prior claims to remission. He submitted not, inasmuch as they had never caused the wide-spread discontent, he might almost say disaffection, which the income-tax had unquestionably produced. He did not deny that such a tax might be worked with tolerable fairness in the presidency towns, but it was wholly unsuited to the masses of the people.

And yet he had an unsavoury recollection of the time when he was a Commissioner of Appeal under Mr. Wilson's Act, and learned what a fearful power of oppression that Act contained even for a presidency town.

That it ought not to be brought to bear upon the masses of the people he thought the Finance Minister himself admitted, when he proposed to raise the minimum of taxation from 500 to 750. In a speech which he made in this

Council last year, the Hon'ble Member said :—"How was the burden to be borne? He said it should be borne by the rich and comparatively well-to-do. Those who opposed him said it should be borne by the poorer classes. This Council could judge between them." MR. COWIE re-echoed that last sentence and said—"this Council could judge between them." If the Hon'ble Member would adhere to that theory, and would define the rich and well-to-do to be persons in the receipt of incomes of Rs. 1,000 per annum and upwards, he would probably vote for MR. COWIE's second amendment.

This was the last day in which he should have the honour of a seat in this Council. He should always remember with satisfaction the courtesy and consideration which he had invariably received from his numerous colleagues under four successive Presidents. Might he be allowed to say how much that satisfaction would be enhanced if he could add to it the thought that his last action as a Member of this Council resulted in the removal of an odious and irritating tax from many of his fellow-subjects, and in the withdrawal of no inconsiderable portion of odium from this great Government?

His Honour the LIEUTENANT GOVERNOR said that it might seem somewhat hard that he should attempt to inflict on the Council any remarks of his own, as the Hon'ble Member who presided over the Financial Department had so gracefully receded from the advanced position which he at one time took when he circulated amongst Hon'ble Members the notice that the tax was intended to be permanent. Still, as the view which HIS HONOUR took was somewhat different from that of the Hon'ble Mr. Cowie, whose amendment had been accepted by the Government, he would ask the indulgence of the Council. Every great system of finance was a series of surprises, and the Hon'ble Sir Richard Temple had given them, today, a surprise which was an agreeable surprise, namely, the concession that the income-tax should be taken for one year only. HIS HONOUR had been gratified by the terms in which that concession had been announced, inasmuch as the view taken by the Hon'ble Sir Richard Temple was precisely that which HIS HONOUR was inclined to take, namely, that the tax was now limited to one year, not in entire concession to the views of the Hon'ble Mr. Cowie, but on the view expressed by His Excellency the Governor General, namely, that in taking the tax for one year, it should be considered in the ensuing year whether the tax was to be renewed in the same form or in any other form. He would venture, since this tax had been the subject of so much, so serious, so weighty discussions, to say, as he had said on a former occasion, that he felt conscious that there were at present very serious objections to the tax On the other hand, he would advise the Government of India not alto-

gether to surrender this tax rashly. He would say that it was not desirable that this tax should be surrendered, even in face of the weighty statements made by the Hon'ble Members to the left of the chair, without the fullest and most careful consideration. Because, although the tax was a most unpopular tax, both with the officers of the Government and with a very large proportion of the people, he felt that it was a tax on the rich; that a tax on the rich was much wanted and not to be abolished unless it could be shown that the finances could spare the tax, or that some other form of taxation could be advantageously substituted for this income-tax. He was a good deal struck in hearing a gentleman holding high office express himself in very lively terms against this tax. He said that he had formerly travelled about the country as the representative of a friendly Government, but that now, wherever he went, he was mobbed by people who did nothing but shout out "takus, takus, takus." Another officer of the Government who was present generally coincided in the opinion of that gentleman, but a few seconds afterwards he said "they seemed to be mostly baniyas." His Honour was quite aware that the opposition to the tax was not confined to the class of "baniyas:" there were many inhabitants of this city, and many officers of the Government, who were equally strong in their condemnation of the tax. At the same time he thought there were considerations which tended to the view that the tax should not be surrendered till a substitute for it was found.

He would also express his concurrence with the remark which had been made today, that there was one advantage in the income-tax, namely, that it placed a great check on expenditure; because so many people were so much impressed with dislike to the tax that the Government would be forced to try to cut down all expenditure as much as possible. It was said with truth that, in England, there was nothing more apparent than that the income-tax led to economy, because the burden of the tax fell on the most influential classes. He was quite sure that there were none of us who gloried in the name of Briton, but gloried in the exploits of His Excellency the Commander-in-Chief in Abyssinia; but at the same time he felt that these exploits would tend to put an end to such wars in the future, not only by the example which was given by His Excellency to wrong-doers, but also by the very heavy bill which it was his duty to bring in for the expenses of that war, which would go far to influence the British payers of income-tax in future.

The other point on which His Honour ventured to address the Council was this, that while a concession had been made that this tax should not be perpetual, that the question of its continuance should be considered in another year, he was desirous again to submit to the Members of the Government of

India his view that it was desirable that the Income Tax Bill in another year should not be introduced in this summary way in the fag-end of the session, giving only one week for its consideration in Committee; but if it should be found desirable to introduce this Bill on another occasion, it should be introduced at an early period and full opportunity for discussion be given to the Members of this Council, both the Members of the Government and the Members whom he might venture to call independent and who represented the various Provinces of the Empire. He thought the statements made by the Hon'ble Mr. Robinson and the Hon'ble Mr. Inglis almost necessitated this course; and his hope was that, if an Income Tax Bill should be brought forward in future, it would be in sufficient time to admit of full discussion. He ventured, on a former occasion, to make these suggestions, when he was met by several very powerful arguments made by a very powerful debater. The Hon'ble Mr. Stephen had said that it was quite unreasonable that His Honour should ask for further enquiry, because the Bill before the Council was almost exactly the same as the last Income Tax Act and several similar Acts which had gone before. But to that, His Honour would reply, that not one of those Acts had been considered as he would wish an Income Tax Bill to be considered, and in the way that such a Bill ought to be considered. He spoke under correction, but he believed that, on every occasion on which an Income Tax Bill had been introduced, it had been introduced at the fag-end of the session, and on what he had before ventured to call the stand-and-deliver principle. He believed he was right in saying that, on some former occasions, the Council had even a shorter period of time to consider the Bill than on the present occasion; that this was the longest interval ever given, and if the next Bill was to be brought in with a view to further and more minute consideration, it should not be brought in at the end, but rather at the beginning, of the session.

Again, another objection to a hasty consideration of this kind was, that the subjects to be considered were of such intricacy, that he confessed that he was not prepared to solve them off-hand; but the argument urged on the other side was, that the subject was too involved and intricate for human understanding, and therefore we must swallow the Bill as a whole, as some people swallowed the doctrines of fore-knowledge and free-will or the Athanasian Creed. There were a great many people who were content to accept on trust the doctrines of fore-knowledge and free-will, and other things of that kind, but who strongly objected to take on trust anything that would affect their pockets; and in that view, this was one of those special things which was within the scope of the consideration of mere sublunary creatures. He thought that this Bill involved

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many grave questions that ought to be considered by this Council, and that those questions were within the scope of our power and intelligence, and that it was very desirable that Hon'ble Members who had intimate experience in the working of the income-tax should assist in the solution of these questions. Because, although he had the most intense respect for the members of the Executive Government, he thought the exalted position they held removed them one degree further from the people than Hon'ble Members who came from immediate contact with the people, and who were therefore better able to represent their views and wishes. He was free to confess that, in the observations he had made on a former occasion, he was guilty of a lapse of the tongue when he spoke of taking evidence. He quite admitted that, if the Committee proceeded to take formal evidence on an Income Tax Bill, they might take evidence till the end of time without coming to a conclusion. But he thought that the Committee might take evidence in an informal way; that is to say, get information from persons within this city of many nations, and elsewhere, that might and must afford most valuable aid to the Committee. It would not be necessary to take formal evidence, but the Committee might obtain much information from many persons with regard to a tax of this character.

Then, a point on which he had specially dwelt was a subject which required special consideration, namely, whether, in regard to the imposition of direct taxes, some distinction ought not to be made between income derived from labour, and income derived from property. On that point he was met, first by the Hon'ble Sir Richard Temple, who asserted that an income-tax prevailed in all countries. That was an assertion extremely new to His Honour; his impression was that the number of countries in which a proper income-tax prevailed as a general tax was very limited, and that when a Committee came to examine the character of the tax imposed in different countries, the examples they would have to examine must be confined to a limited number of countries. Then, the Hon'ble Member went on to say that the questions to which His Honour had referred had been worn thread-bare in England. But His Honour submitted that, in his opinion, this question was not worn thread-bare, and that the objections made in England to the course which he suggested were principally departmental objections; and he might remind the Hon'ble Member that it had been similarly said that the arguments for the repeal of the Corn-laws had been worn thread-bare; but when their repeal became an accomplished fact, then it was that the arguments in favour of the repeal of the Corn-laws were found not to be quite worn thread-bare. The question of making a distinction between a tax on incomes and a tax on property had been lately reproduced in England. There, however, reforms affecting the rich were hard to achieve, and if this country

had set England the example in the way of codification of laws and other things, perhaps in this matter of a more equitable way of assessing incomes and property we might also show the way to England.

Another point which would require serious consideration was the rate at which the tax was to be imposed. He ventured to state seriously that, in his opinion, if you were to keep any such tax at all, it would be better to put it for some time higher than one per cent. There seemed to him to be something immoral if we were to levy a tax in that shape in the belief that, if you put the rate very light, it would not pay persons to resist, and that you might raise it higher another day. It might, too, be hardly worth while to keep up the whole machinery of assessors and collectors for such a small tax; you might get a light revenue and at the same time the cost of collection might be nearly as much as if you imposed the tax at a heavier rate. This very morning he had before him a letter from the Bengal Board of Revenue, in which they argued with all gravity and seriousness that there were not so many cases of oppression under the heavy income-tax of $3\frac{1}{8}$ per cent. as in the case of the one per cent. tax, because the people thought it worth their while to resist the heavy tax, and would not pay more than they had a right to pay; and that was the reason why there were less complaints under the $3\frac{1}{8}$ per cent. income-tax, than under the lighter taxes of the previous years.

His Honour also differed from the Hon'ble Mr. Cowie in thinking that by estimating a little more income from the proceeds of opium and a little less, expenditure on the Public Works, and so making things pleasant, an equilibrium would have been produced, and there would have been no necessity for an income-tax. On the contrary, he thought that the margin taken by the Government of India in their present budget was rather too small, and he was afraid the smallness of that margin had led to what he might call a little hard practice on the part of the Financial Department in giving their children, the Local Governments, the sums to which they had a claim to start them in the world. It seemed to him that, in regard to some small matters, the Financial Department were very hard with the Local Governments, and that if they put their margin a little higher they might be more liberal.

Perhaps the Council would bear with him a little more on this subject, because, in one of the local newspapers that morning, he was represented as having, in another place, accused the Government of India of general illiberality in their dealings with the Local Governments. That, however, was not his view,

and though in Bengal one must speak as a Bengáli, he hoped that he had not gone beyond the point of fair and just criticism. He might say that a good deal of discussion had been introduced in the fiscal relations between the Supreme and the Local Governments by some passages of arms between them and the Financial Department. It seemed to him that it was admitted that, in trying to establish an equilibrium in the Imperial Finance, the Government of India was not doing so entirely by the reduction of their own expenditure, but that a certain amount of the burden had been thrown on the Local Governments. It was most distinctly admitted that a certain sum for the immediately coming year was thrown on the Local Governments to make up, and it was also most clearly admitted, both in the original Resolution and by His Excellency the President, that particular departments were made over to the Local Governments, inasmuch as they were growing departments, and that therefore the burden on the Local Governments must increase from year to year. It was not thought desirable to transfer any departments which were sources of revenue, but only certain very rapidly growing charges. His Honour was quite sure that it was not the desire or intention of the Government of India to assert for one moment that they had produced a financial equilibrium without imposing any burden on others. That equilibrium had in some degree been obtained by throwing a portion of the burden on the Local Governments, and telling them to make up the small deficit now assigned to them and the larger deficit that must accrue in future years. But as the servant was sometimes more zealous than his master, some gentlemen had attempted to explain away this view of the case, and tried to make out that there was no burden put on the Local Governments at all. His Honour ventured to make these remarks in the view that it might perhaps have been better, if the income-tax was to be retained at all, to keep it a little higher. The reduction in the allotments made to the Local Governments had caused considerable difficulties and complications. The Local Governments being new to the system of local finance, it was perhaps desirable that their path should have been made as easy as it possibly could. He thought it might have been better to say "here, we give you the assignment of the most economical year, but for all expansions and improvements in the future, you must provide the means." The result of the course followed had been that, at the very commencement of this scheme, the Local Governments had been driven to create systems of taxation. In some places it was proposed to impose a license-tax, which had been described as being, in His Honour's opinion, a rough income-tax on the lower incomes, to supplement the income-tax on the higher incomes which was to be taken by the Government of India. In fact, it put the Local Governments in this position, that the Government of India taxed the rich, and we taxed the poor, and between us we taxed every one.

Once more he ventured to submit whether it was not desirable, either to raise something more by this tax and so relieve the Local Governments from the necessity of immediate new taxation, or to make over the income-tax with a proportion of additional charges to the Local Governments, and to allow them to manipulate that tax on their own responsibility, to make it bearable, or to substitute something for it if they could. By so doing, not only would you take objections out of the mouths of the local officers if they thought that the tax was objectionable, but it would prevent the clashing of income and license-taxes, and the clashing of direct imperial taxation with direct taxation for local purposes. He would again say that the policy he ventured to suggest as the result of these remarks was that, on the next occasion, the Council might be allowed some longer time for the consideration of Bills of this description.

The Hon'ble MR. ELLIS said that, as the amendment before the Council was agreed to, he did not propose to trouble the Council with more than a few words with reference to what had fallen from His Honour the Lieutenant Governor. MR. ELLIS was somewhat surprised to hear the complaint that sufficient time had not been allowed for the consideration of this Bill, because he considered that, this year, the Government had afforded the Council most ample opportunities for discussing their financial measures, and he thought that the Council would agree with him that His Honour had not been slow in availing himself liberally of such opportunities. When His Honour asked for earlier discussion in future years, there was one circumstance which His Honour had apparently forgotten, namely, that so long as the financial year remained unaltered, it would be simply impossible for the Government to bring in their Income-Tax Bill at an early period of what His Honour called the session, and for this reason that, at that time, Government could form no estimate whatever of what our financial position was likely to be at the beginning of the next year, and if we attempted to introduce our Income-Tax Bill in November or December, we should be met, and properly met, with the objection that it was preposterous to do so, because the Council could form no idea of what our position would be in March. For this reason he thought it would be impossible to comply with the suggestion made by His Honour. As it was, the estimates of the Opium Revenue were complained of, although they were framed on information received by telegram up to the last moment of presenting the financial statement just as the year was closing; but what would be the position if we were to frame our estimates in November or December for application in the year commencing in the following April. They would be quite guess-work and could not be relied on.

There was a way, however, in which all that His Honour desired in respect to the careful consideration of details might, MR. ELLIS thought, be thoroughly well effected, and the way was for the local officers of the several administrations to watch carefully and constantly the working of this Bill. If the Hon'ble Members who had a seat in this Council, and who, during the rest of the year, presided over Boards of Revenue, would, on their return to their respective presidencies, institute searching enquiries into the machinery for the assessment and collection of the tax; if they would set themselves to devise means for the improvement of its working and for the abatement of corruption and wrong-doing; and if, having done this, they would forward, through their Governments, reports containing suggestions for improvement; they would do a greater service than by denouncing the iniquities of the tax in general terms, and they would accomplish far more effectually than by long deliberations in Committees of the Council all that His Honour desired, so far as the working details of the law were concerned. As for the demand for longer time to discuss the principle of the tax, it appeared to him that ample time was afforded by the course which had been followed on this occasion, and he could not conceive that more complete discussion was desirable or indeed attainable.

The Hon'ble MR. STEPHEN said that, as the Lieutenant Governor of Bengal had referred very pointedly to what MR. STEPHEN said at the last discussion on this Bill, it would not be courteous in him not to notice His Honour's observations. He thought that one or two remarks which had fallen from His Honour called for an expression of opinion from MR. STEPHEN in his capacity of the head of the Legislative Department. He could not avoid also making one or two remarks as to the unpopularity of the income-tax. The history of the matter appeared to be something to this effect. The Europeans exceedingly disliked paying a 3⅛ per cent. income-tax, and he confessed he did not like it himself. They naturally thought that, as the tax was unpleasant to themselves, it must, no doubt, be unpleasant to the Natives—and no doubt it was. The European Press put it forward as a grievance, and the Native papers followed suit; and from the Native papers he could well understand the matter getting all over the country. Although he supposed the tax was unpopular to a certain extent, it seemed to him that the noise that was made was considerably beyond what was felt. He must admit that that did not destroy the importance of this outcry, because feelings of that kind must be attended to whether they were based on reasonable grounds or not. He should have said nothing further upon the subject if His Honour had

not with great earnestness suggested that, if the income-tax were to be re-imposed, the measure should be put forward early and fully discussed. MR. STEPHEN hoped otherwise, not only for the reason given by the Hon'ble Mr. Ellis, but for another reason which he would specially recommend to His Honour's consideration. MR. STEPHEN thought that this Council was not a House of Commons in any sense of the words. It did not govern the country, and it should not attempt to do so; if it did so, it would render the management of public affairs very difficult. Every member of this Council must know that it is not a representative body; that we do not sit here to discuss the whole policy of the Government; and that if the Council chose to do so, it impeded public business. The government of the country was carried on, and must be carried on, by the Governor General in Council. The Legislative Council was not appointed for the purpose of carrying it on; and a prolonged discussion of the kind suggested by the Lieutenant Governor on the whole subject of the income-tax would violate this principle and would very much interfere with the business of the country. It would do no good, and might do much harm.

So much as to the general principle, on which he was not sorry to have an opportunity of stating his mind fully.

But with regard to this tax, he could not withdraw or qualify anything he had said, notwithstanding what had fallen from His Honour. The particular questions which His Honour proposed to discuss were questions not fit to be discussed either by this Council or by the Executive Government. They were subjects which embraced the whole range of political economy. For instance, it was often said that the abstract principle of an income-tax was, that it should impose equal sacrifices on all those who were subject to its operation. That was commonly called the principle of justice. If that proposition was not put forward by His Honour, it was at any rate put forward by others, and the course proposed by His Honour would lead directly to its discussion,—a useless and indeed mischievous result.

Then, again, there was the question of the distinction between property and income which His Honour did put forward, and which he said had been put out of the way in England by departmental objections. What was meant by departmental objections MR. STEPHEN could not say. He believed that the argument generally put forward upon the subject in England was, that if the income-tax was permanent, it was quite fair to tax income as you taxed other permanent property, because the tax on income was paid as long as the

income was earned. But however that might be, you had first to ascertain distinctly what you meant by income; and when you tried to apply that principle in detail to a Bill of this kind, you would find difficulties which he did not think any one could conceive beforehand. He believed that such discussions would lead to no good result whatever, and as for taking evidence, he thought it would be a mere waste of time. He felt that any Bill brought forward in this country on such a subject must be of the simplest and most general kind; it must be worked roughly; and if you wanted an income-tax based upon an exhaustive inquiry into the first principles of political economy, it was utterly out of the question to make such inquiries in India. Every European in this country who was capable of discussing the matter had his whole time fully employed, and if the discussion was intended to answer any serious purpose, it must be undertaken by a number of people who could afford to give to the consideration of the subject a considerable amount of time. His Honour had said that we had shown England the way in many subjects, particularly in the codification of our laws. This statement MR. STEPHEN thought was as fallacious as it was specious. It was true that the codification of particular branches of our laws had been adopted in this country before it had taken place in England. He alluded to such laws as the Penal Code, the Codes of Civil and Criminal Procedure, and the like; but could he say that this was due to India? Surely not. What had happened was this,—people supposed to be acquainted with such matters had been sent out to India to do it. The project of enacting such measures had arisen in England and not here. In England there were plenty of people with abundant means of inquiry and leisure. But to suppose that half a dozen Civilians, burdened with work, would care to sit down and discuss and settle principles of political economy, was a great mistake. If His Honour thought so, MR. STEPHEN could not agree with him. Without intending the slightest disparagement to this Council, he did not believe that they could do what His Honour wanted; that was a reason why MR. STEPHEN did not wish to enter into the consideration of such questions.

The Hon'ble MR. INGLIS was glad to hear from the Hon'ble Sir Richard Temple that the Government had resolved on accepting the first amendment proposed by the Hon'ble Mr. Cowie, though he regretted the manner in which the hon'ble gentleman announced this determination.

We were told so repeatedly and emphatically that the Government had seen no reason whatever to change its opinion as to the fitness of an income-tax for this country, and that it was fully intended to re-impose it next year, should

the budget which would then be prepared under the Hon'ble gentleman's orders show the smallest necessity for it, that he (MR. INGLIS) confessed he was at a loss to understand the reasons which had led to the concession that had been made.

He had done his duty in protesting against the imposition of an income-tax. He declared on his honour, that he believed every word he said against that tax, in the debate on the introduction of this Bill, was strictly true, and that, if anything, he understated, rather than overstated, the evils that attended its enforcement in this country.

The Hon'ble Mr. Strachey had contradicted what he said. He relied, however, solely on his experience of the working of Mr. Wilson's tax in 1860. So far, then, we had nothing more than his recollections of the working of the tax ten years ago—just after the mutiny—in one district, against MR. INGLIS' knowledge of the effects of the tax in 1860 and in all the succeeding years it had been imposed, till now, throughout the whole country.

For the truth of what he said, he appealed to the public. He appealed to every officer in the service of Government, who had had to take an active part in the assessment and collection of the tax during the past ten years. He appealed to every member of the large non-official class, whose number was, he was glad to see, so rapidly increasing in India. He would refer especially to the gentlemen living in the interior of districts as indigo planters, or holding estates which they cultivated themselves; they had far better opportunities of knowing the feelings of the people on any subject, and of judging how they were affected by any measure than we had. They lived among the people, and the people spoke to them far more freely and openly than they ever did to any one of us.

They were to a man opposed to the tax, not, he firmly believed, from the selfish motives attributed to them just now by the Hon'ble Mr. Stephen, but because they saw the evils under which the people were suffering from its imposition, and were honestly desirous of relieving them.

Surely, the almost unanimous opinion against the tax expressed by all classes of the community, official as well as non-official, should carry some weight, and should show that there was ground for doubting whether the tax was one suitable for this country.

Notwithstanding what was said just now by the Hon'ble Sir Richard Temple, as to the intention to re-impose this tax next year if the slightest necessity arose

for it, he sincerely trusted that, during the coming year, the policy of imposing this tax at all in India would be considered with the care and deliberation its importance demanded: and that if, after full and careful consideration, it was decided that an income-tax might be properly levied, either as a permanent source of income, or as a tax to be resorted to on occasions of emergency only, the Bill under which the tax was to be levied would be brought forward early in the cold weather, so that its provisions might receive that full and careful examination and discussion they required, but which they had never received as yet.

He fully and entirely concurred in all that was said by His Honour the Lieutenant Governor of Bengal on this point. Without entering into any of the abstruse and difficult questions the Hon'ble Mr. Stephen seemed to think would entirely engage the attention of the Committee, there were many important and practical questions connected with the measure which required discussion; such as the mode and manner of the assessment of the tax; the manner in which penalties under it should be levied; whether all incomes should be taxed uniformly, or whether incomes below rupees 4,000 or 5,000 a year should not be taxed at a lower rate than incomes above that amount, and whether a certain portion of all incomes up to rupees 500 or 600 a year should not be free altogether of the tax. These and many other questions connected with the tax had never been properly considered; and indeed never could be as long as the present practice was maintained of bringing in the Bill just at the close of the session.

The Hon'ble SIR RICHARD TEMPLE only wished to trouble the Council with a very brief remark in reply. He understood the Hon'ble Mr. Cowie to say, with reference to the income-tax, that he was satisfied that the income-tax should have a prior claim to all other measures of relief. SIR RICHARD TEMPLE had heard that remark with some surprise, because he believed Mr. Cowie had expressed an opinion of an opposite tendency on a former occasion. He had therefore sent for the former debates from which he would read to the Council the whole passage on this subject which occurred in Mr. Cowie's speech. His Hon'ble friend then said—

He might now say that he cordially approved of the supersession of the license-tax by the new income-tax, and would even have welcomed a somewhat higher percentage if it had been made contemporaneous with the desired remission in customs-duties.

SIR RICHARD TEMPLE inferred from that, that Mr. Cowie then thought that the reform of the Customs Duties was of more importance than the remission of the income-tax.

The Hon'ble MR. COWIE said, some few years ago he heard of an eminent Member of the House of Commons being taxed as to his opinions by a reference to Hansard's Debates as to the view he once entertained, and all that that eminent Member said in reply was that he had since grown wiser. MR. COWIE now said the same.

His Excellency THE PRESIDENT said as the last stage of the Bill would come on Friday next, he did not intend to take up the time of the Council more than for one moment at present. What he intended to say was with reference to what His Honour the Lieutenant Governor said as to the matter of time. HIS EXCELLENCY thought that the Hon'ble Mr. Ellis had conclusively shown that taxation Bills, either for the imposition or repeal of taxation, could not possibly be brought on at any other time except at the period when the Finance Minister introduced the financial estimates of the year. The answers which had been given in regard to that point were so conclusive that he need not supplement them.

But with regard to allowing sufficient time for the discussion of financial measures affecting taxation, HIS EXCELLENCY could only say that it was the object and the desire of all the members of the Government to give ample time for their discussion. In truth, during the present year, nearly a whole month had been given for the consideration of this one Bill. And he ventured to say, having had considerable Parliamentary experience, that it was quite clear that the ordinary time given, even in representative assemblies, for the discussion of the most important measures was much less than had been given in the present case. He had known of measures of finance being introduced, and the opinion of the House of Commons being taken, and the measure being finally decided, within a fortnight. If Hon'ble Members of this Council, either official or non-official, could show that the time allowed for the consideration of any financial measure was too short; that the public interests would be advanced by the expansion of the discussion, HIS EXCELLENCY for one never should oppose any reasonable proposition for further consideration. A great deal was said last year about hurried legislation. Those who made that assertion entirely forgot that HIS EXCELLENCY said that he was quite prepared to remain here as long as was necessary. And if any reasonable proposition was made, he should be only too glad to remain. But it was quite impossible that the financial measures of the Government could be brought forward except within a fortnight or three weeks from the time when they were now brought forward, for the simple reason, that we were not in a position

till then to come to any conclusion or to make any estimate of the public income and expenditure that would in the least degree be satisfactory.

His Honour the Lieutenant Governor had called the meetings of the Council here a Session. HIS EXCELLENCY must remind His Honour that, as far as the Legislative Council in India was concerned, no such thing as a Session existed. It sat the whole year round; it sat wherever and whenever the Governor General chose to call it; and the practice had been that, except for about two months in the year, at a time when the Departments had been moving, the legislative labours of the Council extended throughout the whole year. A thing that had no existence could not have a fag-end. The name given was really not applicable to the meetings of the Legislative Council.

HIS EXCELLENCY wished to show, in the first place, that it was impossible to comply with the desire of His Honour the Lieutenant Governor as to the time for the introduction of financial measures, and also to assure His Honour and the public that, as regards any personal inconvenience, HIS EXCELLENCY should always be prepared to sit here and to remain in Calcutta till such period as he and his colleagues might think desirable, to allow time for full criticism of any measure which we might think it our duty to introduce into this Council.

The Motion was put and agreed to.

The Hon'ble MR. COWIE moved that, in section 7, for the words "sixty-two rupees eight annas," the words "eight-three rupees, five annas, four pie" be substituted.

Also, that, in section 17, for the words "seven hundred and fifty," the words "one thousand" be substituted.

The Hon'ble SIR RICHARD TEMPLE said he had already stated, on behalf of the Government of India, the objections to the proposal before the Council. He now again said that we could not accede to the amendment, because it interfered with the budget-estimate. We had not one rupee more than we required, and we simply could not spare the money which this amendment would take from the receipts of the coming year. On the contrary, he rather shared the apprehension expressed by His Honour the Lieutenant Governor that, if anything, the estimate was too high. At all events, under the existing circumstances of the country, he had to state that the Government could not give up the money which the adoption of this amendment would cause the Government to lose.

The Hon'ble MR. CHAPMAN intended to vote against his hon'ble friend Mr. Cowie's amendment. He should do so because he was entirely satisfied with the very large measure of relief the Government had already been able to afford. Last year he spoke as strongly as he could against what he considered the excessively high and unnecessary income-tax that was then imposed; but he then said, as he said now, that until some one could devise a means of getting at the rich trading classes, a one per cent. tax was fair and reasonable. He made these remarks because he was naturally anxious to defend himself against any appearance of inconsistency.

Now, as to the particular question of the minimum, the Government had fixed rupees 750; and, in doing so, had allowed 2,40,000 persons, or one-half the total number that had hitherto paid, to escape altogether from the clutches of the Collector. Surely this was no small amount of relief. He on his own part considered, as he said on the occasion of the last debate, that there were other interests which now called more loudly for relief, and alluded especially to the transit-duties on sugar. He was much surprised to hear from his hon'ble friend, Mr. Cowie, that the claims of those interested in this trade were not entitled to the same consideration as those of the income-tax payers, inasmuch as they had not complained as loudly. His hon'ble friend should remember that the views of these people were not powerfully represented, and that, because their grievances were not loudly urged by influential organs of public opinion, it was not the less incumbent on Government to see that they were not overlooked.

He had no doubt that the Government would, when the proper time arrived, afford further relief to the income tax-payers; and he hoped, when such time came, that the relief would take the form indicated by his hon'ble friend, of raising the minimum, and thus affording still further relief to the poorer classes. For the present, MR. CHAPMAN, for one, was quite satisfied with what had already been effected.

The Motion was put and negatived.

CONSOLIDATED CUSTOMS ACTS AMENDMENT BILL.

The Hon'ble SIR RICHARD TEMPLE also presented the report of the Select Committee on the Bill for the further amendment of the Consolidated Customs Act.

NATIVE MARRIAGE BILL.

The Hon'ble MR. STEPHEN presented the report of the Select Committee on the Bill to legalize marriages between certain Natives of India not professing

the Christian religion. The Bill was introduced by Mr. Maine and proposed a very extensive change in the laws relating to marriage. The cause which led to its introduction was the grievance which the members of the Bráhma Samája said they felt, for they asserted that they did not know whether they were married or not. The Bill was circulated to the Local Governments and had been much discussed. It appeared that the Local Governments were almost unanimous on two points. First, that there could be no objection to give relief to the Bráhmas; and, secondly, that very great objection would be felt by all classes of orthodox Hindús if the measure were made a general one. They said that the direct effect of such a measure would be to introduce very considerable alterations in their social rules and the institution of caste generally. He felt the weight of this objection. The Bill, therefore, had been reduced to meet the specific case of the Bráhma Samája, and provided a simple form by which they would be married according to their own views.

GENERAL REGULATIONS AND ACTS (DEHRA DOON) BILL.

The Hon'ble Mr. Stephen also moved for leave to introduce a Bill to bring the Dehra Doon within the operation of the general Regulations and Acts. He said he had a word or two of explanation as to this Bill. The Dehra Doon by some means or other, of which he was at present ignorant, had fallen out of the operation of the general Regulations and Acts. It had been supposed that the general Regulations did apply to the Dehra Doon, but it was found that, in point of fact, they did not apply; and this had introduced considerable doubts on the administration of justice in that part of the country. We therefore proposed to extend the general Regulations and Acts to the Dehra Doon. There had been considerable delay in the preparation of this measure, which was proposed by the Government of the North-Western Provinces. It was originally intended to include the Doon in the general measure for declaring the extent of the general Regulations and Acts. But that was a measure of considerable difficulty, and would require a good deal of time for its careful revision; and accordingly he proposed that, in the meantime, we should bring in this Dehra Doon Bill, and afterwards consider the possibility of repealing it when the other Bill was passed.

The Motion was put and agreed to.

The Council adjourned to Friday, the 31st March 1871.

Calcutta,
The 27th March 1871.

WHITLEY STOKES,
Secy. to the Govt. of India.

Office Supdt. Govt. Printing.—No. 432 L. C.—17-7-71.—220.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Government House on Friday, the 31st March 1871.

PRESENT:

His Excellency the Viceroy and Governor General of India, K. P., G. M. S. I., *presiding.*
His Honour the Lieutenant Governor of Bengal.
His Excellency the Commander-in-Chief, G. C. B., G. C. S. I.
The Hon'ble John Strachey.
The Hon'ble Sir Richard Temple, K. C. S. I.
The Hon'ble J. Fitzjames Stephen, Q. C.
The Hon'ble B. H. Ellis.
Major-General the Hon'ble H. W. Norman, C. B.
Colonel the Hon'ble R. Strachey, C. S. I.
The Hon'ble F. S. Chapman.
The Hon'ble J. R. Bullen Smith.
The Hon'ble F. R. Cockerell.
The Hon'ble J. F. D. Inglis.
The Hon'ble W. Robinson, C. S. I.

INCOME TAX BILL.

The Hon'ble SIR RICHARD TEMPLE moved that, in the Bill for imposing duties on income, section 22, for the words 'three-fourths,' the words 'nine-tenths' be substituted. He said, if the Council would refer to that section, they would perceive that, when a house-holder lived in his own house, he was assessed to the income-tax on the rack-rent of the house. From the rack-rent certain charges which always fell on house-holders had to be deducted, and the question was, what should be the amount of deduction allowed? The Committee proposed that twenty-five per cent., or one-fourth of the rack-rent, should be allowed on account of such charges; afterwards the Government found that the amount of deduction should be one-tenth, for this reason that, when house-holders let their

houses, one-tenth of abatement was allowed from the actual rent received. This had always been understood, and it was recognized in the executive rules and still stood in the rules for the coming year. That being the case, it was clearly proper to treat house-holders occupying their own houses in the same manner. He therefore had to propose to the Council, on behalf of the Government of India, that the amendment which he now moved be adopted, so as to place house-holders occupying their own houses in precisely the same position, neither more nor less, with those who let their houses.

His Honour the LIEUTENANT GOVERNOR was not competent to give a valuable opinion on this point. He had only just found the section to which the amendment referred. But he would not be justified in withholding from the Council information which he had received from an experienced officer, namely, that the provision of the Bill that houses occupied by owners should be assessed at the rack-rent operated somewhat hardly on some house-holders. As the section stood, it provided that the rent of the house would be taken to be the sum for which it was "worth to be let." But in India, as in other countries, it was extremely difficult to say the rent at which a house was worth to be let. In England, some of the great Ducal castles were assessed at £200 a year, because no one could be found to lease them; whereas in India this provision operated very harshly in regard to some poor decayed families, who, under its operation, were assessed at a much higher sum than they could afford to pay a tax upon. Even a poor man, who could scarcely afford to clothe and feed himself, might have his house assessed at £50 a year. The abatement in London from the gross rental was twenty-five per cent. and not ten per cent.

The Motion was put and agreed to.

The Hon'ble SIR RICHARD TEMPLE also moved that, in section 39, the words "or to produce any accounts" be inserted. This was a mere verbal improvement in the section, of which the intention was clear.

The Motion was put and agreed to.

The Hon'ble SIR RICHARD TEMPLE then moved that the Bill as amended be passed. He said:—"My Lord, though this is an important motion, I do not desire to say anything more than what has been already said in support of it. After the votes passed by the Council on the 27th, I presume that we may infer

that the Bill will today pass into law. If so, this will be the fourth Income Tax Act for which I have had to obtain legislative sanction, acting on behalf of the Government of India, and in the due execution of my financial duty. Having, then, on four successive occasions (March 1869, November 1869, April 1870 and now March 1871) had to trouble the Council with arguments in support of taxes on income—to all which arguments I consistently adhere—I shall not now further trespass on the indulgence of the Council."

His Excellency the COMMANDER-IN-CHIEF said that, after the expression of his opinion on a former occasion, he did not require to say any thing more regarding this Bill, which might be considered as passed, beyond this, that he should very gladly vote for any other Bill which would effectually touch the rich capitalists and would not be unjust to the European community.

He would take this opportunity of making a few remarks upon the statements which had been made to the Council by His Hon'ble friends Colonel Strachey and General Norman, with regard to the Public Works and Military Expenditure, on some points with which his office was to a certain degree connected.

With reference to the question of Railways, there had been some difference of opinion regarding the gauge. It was a question on which there had been much serious controversy; it was not on that point that he intended to speak now. He would merely say that, having decided the point in favour of a narrow gauge, with which he did not altogether agree, he trusted that the very urgent demand for a Railway from the sea-board of Bombay to Pesháwar would be complied with. He had stated to the Government frequently, and years ago, his conviction of the urgent necessity of completing a Railway to Pesháwar, and he could not too strongly repeat his conviction of that necessity.

With reference to the construction of barracks, he was glad to see, in the statement made by Colonel Strachey, that only four millions sterling had been expended upon the new barracks; and he hoped that, on a close investigation, it would appear that a really smaller sum than this had been expended on the new double-storied barracks; he hoped in the course of time to see every soldier properly housed.

He believed that it was the accepted opinion in Europe, that the successes of the Prussians in recent years were due very much to the intelligence and education of the soldiers in the rank and file, and the opinion had been growing for a good many years in England, that we were called upon to do everything

in our power to promote the moral culture and education of our soldiers. There was no doubt that there was very great improvement in the *matériel* of our soldiers over former years, but when a soldier came to this country, he left a great deal which made his life agreeable as a soldier's life. In England, he was in a garrison town, where he had the society of his own class and public amusements. If he was a social man, he could go to places where he could get a glass of liquor, and it was to be hoped he did not always get too much; he always had agreeable places to go to, where he could be amused; he had a well lighted library and a recreation-room.

When the soldier came to this country, the regiment arrived nearly destitute of everything likely to promote his amusement. He had known of cases where regiments came to India almost without any books, and they had no means of establishing their regimental institutions for comfort and amusement, except through the action of the canteen, which required time to accumulate money. Under these circumstances, he thought it must be clear that the soldier required a good many conveniences and a good deal of accommodation in this country to compensate him for what he left behind. There was no doubt that the accommodation for soldiers had been very much improved of late years, and that the Government had a desire to improve it; but to provide shelter for the whole Army was, of course, a very great work, and that was what had to be done after the mutiny. It was desired, besides placing the soldier above the influence of malaria at night, to give him good places of amusement, good libraries and gymnasiums. A theatre also was not thought out of place, as being, when conducted properly, an excellent mode of instruction; a mode of instruction for people in early days before they had books, and which was still very useful, though in a less degree, to those who had few means of literary culture. It was desirable to give accommodation for privacy, so that a few men might quietly read, or write letters, without going half a mile in the sun to the regimental reading-room, which could only be visited conveniently in the morning or evening, and was generally dimly lighted. It was also desirable that these rooms should be under the barrack-roof, so that a Captain of a Company, who took an interest in his men, might have occasional meetings for reading or lectures; the men might also get leave to hold occasional prayer-meetings in the company day or recreation-room. This and such like accommodation was intended to be provided in the new barracks in the lower stories, and he thought that it was not correctly stated that the whole of these lower stories could not be utilized. He thought that when an investigation was made into the cost of barracks on the old, and those upon the

new, style, if to the former were added all the buildings for recreation and comfort—subsidiary buildings as they were called—the cost of the old barracks would be raised to quite as much as the cost of the new barracks, bearing in mind the increased rates of building, and that sanitary demands had increased the space that was considered necessary for soldiers.

He considered that one of the greatest sanitary improvements which had been made was, that the soldier had been allowed greater space, amounting now to 90 feet per man, an improvement which had conduced very greatly indeed to the health of the men and had diminished mortality.

It could be easily understood that, if the soldier had no more shelter than the mere space for his bed, perhaps on a dusty mud floor, and had no change but from the barrack to the parade or the guard-room, he would look to the canteen or the bázár for his amusement, and it was that condition which it was the desire of Government and those interested in the case of the soldiers to remove where it still existed.

He was very glad to learn that the Resolution quoted by General Norman, which had given him some uneasiness, was not intended as a reversal of Lord Lawrence's policy, but simply a modification of it, so that the buildings might be suited to the climate in which they were placed, and that where sound sanitary reasons recommended double-storied buildings, they would be allowed.

There still remained several points on which the health of the Army would be very much improved, and one of these, of great importance, was the water-supply. He was happy to say that that point had come under the attention of Government for the station of Pesháwar, where good water was urgently required. There were other places, also, where improvement on this point was much wanted.

The other point which he had promised to notice was the necessary protection of the country. Some thirty years ago, he was sent up on duty to Dárjíling, and he had to walk sixty miles to get there; he found there only a few huts and three or four Europeans. He had visited the settlement a short time ago, and found the whole place cleared and covered with tea-gardens, and a large number of European cultivators settled there. From there, he skirted the frontier, and found the slopes of the hills, ranging along the whole breadth of the country, equally suited to this valuable cultivation, which at Dárjíling was passing down into the deadly Terai, and converting it into a garden.

For a thousand miles of frontier, there was land suited for the cultivation of tea, and many hundreds of European planters engaged in that cultivation.

The country thus embraced by this border might be said to be 75,000 square miles in extent, but it was in proximity to a number of wild tribes, who for the first time had come into contact with civilisation.

They disliked the approach of civilisation, but coveted the property that accompanied it, and would try to possess themselves of that property.

He considered that it was our sacred duty to protect those who had purchased their lands and embarked in industrial pursuits, and also the Natives of the country, who were helpless and liable to be slaughtered like sheep or carried into captivity; and he considered that the demand for protecting the frontier would increase, and with that increasing demand we ought not to venture on further military reductions.

He considered that a valuable cultivation, such as that in Assam and Káchár, deserved the greatest protection.

He could not, he thought, overstate the value of good European planters. If there was no population in the place, the planter collected one round him. If there was one, he obtained influence over it for good, if he were a just God-fearing man.

He could obtain more resources out of the country than the Magistrate or revenue officer.

He considered these settlers most valuable, and that the State should do everything to protect and foster a cultivation which, in twenty or thirty years, might make India independent of China.

The Hon'ble SIR RICHARD TEMPLE said:—"I desire, My Lord, to offer a few words of explanation on a particular point. As the Council knows, the word 'permanent' was inserted in the original draft of the Statement of Objects and Reasons, and was cut out of the revised copy as presented to this Council before the introduction of the Bill. I now observe that the insertion of the word is described in some quarters as a mistake committed by the Legislative Department. But I wish to say that the mistake (if it was a mistake at all, on which point I do not pronounce,) was not one for which my learned friends of the Legislative Department are at all responsible. For I alone am responsible on that point, and I desire to claim my responsibility accordingly. *Adsum qui feci.*"

His Excellency THE PRESIDENT said:—"As this is the last stage of this Bill, and as I have not yet had an opportunity of making any remarks in Council as to the measures which, during a considerable period, the Government have thought it necessary to take to improve the financial position of the Empire, I wish, in the first place, to recall to mind, as briefly as possible, the state of things which has occasioned the necessity for these measures, to endeavour to explain what their effects have been, and also to shadow forth, as far as I can, what I think ought to be the future policy of the Government.

"I can assure the Council that to myself and to my colleagues, the period of the last two years has been one of the greatest anxiety. During that time unusual, and perhaps what may be termed severe, measures have been undertaken; but I shall be able to show that the circumstances of the case rendered those measures inevitable, and that the result has been all that was anticipated.

"In making this statement, I fear that I shall be obliged to mention many facts and circumstances which are well known, and have often been referred to in Council. But on the last occasion on which the financial measures of the Government can be discussed during the present year, it will not be out of place to bring back many of them to recollection, for I wish most earnestly to press them upon public attention.

"In September 1869, eighteen months ago, after a long and anxious consideration of the financial position of the Empire, we felt it to be our duty to inform the Secretary of State that we were about to take an unusual and an almost unprecedented course.

"We informed His Grace that the Actuals of 1868-69 which were then brought to our notice would show a deficit of nearly two millions and a quarter, the budget estimate delivered in March 1868 having anticipated a surplus of a quarter of a million.

"We said that, on further investigation, we believed that, if the then state of things were allowed to continue, the deficit for 1869-70 could not be less than £1,700,000, the estimate made in March 1869 being for a surplus of £50,000.

"We said that an accumulated deficit of nearly six millions had occurred in the three previous years, and that if the present condition of affairs were allowed to remain unchecked, it was not unlikely that, at the end of that year, the accumulated deficit during four years of peace might approach to the

sum of nearly eight millions. We said that, while this accumulated deficit for three years had been as we described, our cash balances had declined from 13¾ millions to 10¼ millions; much lower than they had been for years; that during this period of three years the permanent debt of the country had been increased to nearly 6½ millions, of which not more than three millions had been spent on reproductive works, and that we considered that this state of things was not one of temporary difficulty, but had assumed an aspect of chronic financial danger.

"We said that great works were in hand, works which it was our duty to pursue and which were not only necessary, and would ultimately be profitable, but which must for a time place a heavy burden upon the resources of the Empire; and we summed up by saying that we believed that nothing less than an advantage of nearly three millions, on both sides of the account, would suffice to place the finances of the Empire in a satisfactory state.

"We refused to make good ordinary expenditure by borrowing.

"We thought that the honour and credit of the Empire were at stake. We said that great evils existed, and we intended to remedy them.

"In pursuance of these declarations made to Her Majesty's Government, we lost no time, but proceeded to act at once.

"We announced several measures of importance. We took the serious, and in most cases the objectionable, course of ordering extensive reductions in expenditure and of increasing the burdens of the people in the middle of the year.

"The Secretary of State had told us, in a despatch written in January 1869, that he entertained sanguine hopes that it might be possible to bring the whole military charge to a sum of one million and a half below its then amount.

"We proposed reductions in military charges which, had they been effected, would have produced, eventually, a saving of nearly a million a year. We believed, and still believe, that the greatest part of the recommendations that we then made on the highest military authority at our disposal, could be carried out without impairing the efficiency of the European or Native Army.

"We at once took a course which, though necessary, we regretted. We reduced the Public Works Department expenditure to the extent of £900,000,

raised the income-tax by one-half, and increased the salt-tax in Madras and Bombay. We ordered such measures of severe economy in the various Civil and Military Departments that the result has been that my hon'ble friend was able to say, in stating the Actuals of the year, that instead of the deficit which he had expected of £1,700,000, he could announce a surplus of £118,000.

"So far for the measures of 1869.

"When we came to consider the prospects of 1870-71, our difficulties did not decrease; the sudden and very large reductions that we were obliged to make in the Public Works Department could not be carried further consistent with the possibility of continuing work at all; many of the proposals which were made as to Military reductions, were under consideration between us and Her Majesty's Government; some have been adopted, others have been altogether declined, some have been referred back to us and are still not finally decided. We felt it would be necessary under these circumstances to add to the resources of the Empire for one year. We considered long and anxiously whether it would be better to invent new taxation or to increase old and well-known burdens. We hoped, and our hopes have been realized, that the great pressure would be only of a temporary character. I am not going to fight the old battle over again as to whether we were right or not in imposing a high income-tax. Everything has been said that can be said on that point, and I will only repeat that, having considered the matter most carefully, we declined to terrify the people by new forms of taxation; we refused to lay additional imposts upon industry and commerce, or to increase the burthens of the poor. We endeavoured to extricate the Empire from a great difficulty by the only mode which we considered possible, and we asked the comparatively well-to-do to contribute to the revenue about one million of money for one year, by means of an enhanced income-tax. The effect of all these measures exceeded our anticipations and the result was a surplus for the past year of £900,000. By these means two years of surplus were obtained, and we gained time to consider, to elaborate, and to inaugurate, measures which we trust are calculated to a great extent to secure us against a recurrence to that position which has caused so much trouble to the Empire and such anxiety to the Government.

"A great deal has been said with regard to reduction in expenditure. On this point much misapprehension appears to exist: we have been frequently charged with neglect of duty in connexion therewith. We said in the despatch

to the Secretary of State of September 1869 that we conceived, as between the then state of things and the future, that we were bound to endeavour to obtain an advantage of three millions. What has been the result? We have not quite attained our object, but we are not far from it. The general expenditure of the country has been reduced from £52,000,000 in 1868-69 to our estimate of £49,000,000 for 1871-72. To this we must add in fairness £656,000 of receipts, which have been handed over to the Provincial Governments under the eight heads of revenue surrendered. But, in truth, we have so far attained our object, that we shall obtain in less than three years an advantage of two and half millions caused by reduction in our expenditure alone.

"The Council must feel that during this time we incurred a deep and heavy responsibility; but having presided over all these consultations, I am glad to be able to offer my hearty thanks to my able colleagues, who throughout the whole of that anxious time have cordially supported me in the objects I have had in view.

"In the early days of the crisis, we had the advantage of the experience and advice of two eminent men, Mansfield and Durand. One has gone to his rest amid the lamentations of a nation; the other, I rejoice to see, has been by the favour of his Sovereign called to the Upper House of the Legislature, and I hope that in Parliament he will continue to give to his country, as he did here, the advantage of his administrative ability and great professional knowledge.

"From the time the serious character of the situation was recognized, each Member of the Government evinced the most earnest and hearty desire to remedy, as quickly and as effectively as possible, the unsatisfactory state of things.

"At first, my hon'ble friend Mr. Strachey was in charge of the Financial Department; on him devolved the duty of inaugurating our early measures.

"When the Financial Member, Sir Richard Temple, resumed his office, he entered as heartily into our objects as if he had been with us when our first efforts were made.

"It was not to be expected that such measures as these could be effected without encountering most violent opposition. We were quite prepared for that.

"I am not going to discuss the questions as to the suitability to India of a high income-tax. I am not going to revive, if I can help it, old and worn-out discussions. As far as the Press of this country is concerned, I fully admit

that if it was the opinion of the gentlemen who conduct public organs that evils and oppression did occur by reason of the levy of this tax, it was their duty to expose them. That we turned no deaf ear to the complaints thus made is fully proved by the action we have taken during the present year, by which we have reduced the numbers of the payers of income-tax by more than 50 per cent.

"I was much struck the other day by the very strong observations that were made by my hon'ble friend Mr. Inglis, who is intimately acquainted with the circumstances of the North-Western Provinces. He presented to the Council his experience of the working of the tax. His account was alarming.

"It is impossible to overlook such a statement made by so eminent an official. We are about, therefore, to request the North-Western Government to furnish us with a catalogue of the cases which have directly or indirectly come to their knowledge showing either oppression or maladministration as connected with the levy of the income-tax. We are also about to ask that Government to supply us with the names of the individuals concerned, and the officers to whom this information has been conveyed. We shall ask who the subordinate officials are that were referred to, and what are the reasons why the Administration is unable to control or to prevent the abuses described. We shall further ask whether these alleged evils and demoralization are supposed to be confined to the assessment and collection of the income-tax only, or extends to the collection of other branches of the revenue. We shall further ask him whether, if these evils are found to exist with regard to the collection of this and other branches of revenue, any remedies can be suggested to prevent their recurrence. I can hardly conceive that a more important series of questions could be put to a Government, and I have no reason to doubt that the Lieutenant Governor of the North-West will give his most earnest attention to them.

"I make this statement to show that the Government will never turn a deaf ear to representations of oppression and evils connected with the administration of our revenue, come from what source they may, but will ever be ready to make the most stringent enquiry, and if evils are proved to exist, to administer at once an effective remedy.

"The hon'ble gentleman who sits beside me (Mr. Robinson) drew the other day a gloomy picture of the future of the people of India as regards taxation.

"It is true, and we must recognise the fact, that as civilization and wealth spread, so must the burdens of the people increase, not in proportion

to increased riches, but to a certain extent. But my hon'ble friend used on that occasion the term 'crushing taxation,' which I think requires some notice.

"I admit the comparative poverty of this country, as compared with many other countries of the same magnitude and importance, and I am convinced of the impolicy and injustice of imposing burdens upon this people which may be called either crushing or oppressive.

"Mr. Grant Duff, in an able speech which he delivered the other day in the House of Commons, the report of which arrived by last mail, stated with truth that the position of our finance was wholly different from that of England.

"'In England,' he stated, 'you have a comparatively wealthy population. "The income of the United Kingdom has, I believe, been guessed at 800 millions "per annum. The income of British India has been guessed at 300 millions per "annum. That gives well on to £30 per annum as the income of every "person in the United Kingdom, and only £2 per annum as the income of "every person in British India.'

"I believe that Mr. Grant Duff had good grounds for the statement he made, and I wish to say, with reference to it, that we are perfectly cognisant of the relative poverty of this country as compared with European States.

"But as a matter of fact, are the people of India heavily taxed? Figures are not always satisfactory, and calculations of this kind must be to some extent open to cavil; but still as statisticians accept the facts that I shall state, we may consider that they represent, pretty fairly, approximate accuracy.

"I have made from trustworthy documents a comparative statement of the incidence of imperial taxation in India, and in some European States, England excluded. I have deducted from the resources of the Indian Empire all those sources of revenue which cannot strictly be called taxation. I have deducted land-revenue, for the reason that it is not taxation, but is that share of the profits of the land which the Government, in its character of chief proprietor, has from time immemorial deemed it its right to demand. The opium revenue is excluded, because no one in India pays it. I have also deducted contributions from Native States, the receipts received in the Army, Postal, Telegraph, and all the Spending Departments. The result is, that the revenue received from taxation proper in India amounts to 14¼ millions from a population of 150 millions, which gives a result of 1*s.* 10*d.* per head per year. I have followed the same investigation with regard to five European States, some of which are not the richest, and I find that, while Indian taxation is but 1*s.* 10*d.* per head per year, the subjects of the Sultan are paying 7*s.* 9*d.*; those of the Emperor of Russia, 12*s.* 2*d.*; the inhabitants of Spain, 18*s.* 5*d.*; Austria, 19*s.* 7*d.*; and

Italy, 17*s*. It must be remembered, however, that a shilling bears a larger proportion to the income of a labourer in India than to that of a labourer in any of the countries mentioned, but still there is no such difference between the value of labour here and in Europe as is represented by the difference of taxations that I have described. Notwithstanding, the financial credit of our empire is far better than that of any of those States to which I have referred. I have mentioned these facts to show that the term 'crushing taxation' is wholly inapplicable to the countries subject to the authority of the Government of India. At the same time I am far from saying that this happy state is not right. I believe it is. The greatest security to Government is given by the feeling entertained by the people that they are lightly taxed. And by avoiding as much as possible additions to the burdens of those who contribute to the interests of the State, we add much to the safety of our rule.

"I will now refer briefly to a few of the accusations that have been made, sometimes in this and other Councils, but more generally by the Press, in places of public resort, and in conversation, against the conduct of affairs by the Financial Department of the Government of India. As these accusations have been clearly made and oft-repeated, there can be no mistake about them. The Government of this country is in one respect in an unfortunate position, for there is no assembly or any means of discussion similar to that which prevails in other countries, whereby members of Government can give an immediate reply to statements made, and administer on the spot the negative to extravagant and inaccurate assertions. We are often obliged to wait for weeks and months before an answer can be given to even the most absurd accusations.

"One of the main objections taken to the conduct of the Government is that the public was unnecessarily alarmed in September 1869.

"This broad assertion is incapable of the slightest proof.

"The deficit estimated in September 1869 was £1,727,402. To meet this, the following measures were adopted :—

	£
The income-tax was raised so as to produce in excess of the original estimate	350,000
The salt-duties in Madras and Bombay were increased by $\frac{5}{24}$ths, producing an excess of	185,000
The Public Works expenditure was reduced by	898,453
And severe economy was enforced in the Civil and Military Departments, producing, say, ...	300,000
TOTAL ...	1,733,453

d

"The year resulted in a small surplus of £118,668. That there was this surplus and not the estimated deficit is obviously due to the measures adopted upon the revision of September 1869, and to no other cause. It is simply silly to make the success of those measures the ground for condemning them.

"Another charge made is that the accounts and estimates presented to the public by the Financial Department are untrustworthy and inaccurate to an extraordinary degree.

"As far as account goes, there is no foundation whatever for the allegation that any inaccuracies have occurred. Practically, the accounts for years past are believed to be absolutely correct. Within a certain margin it cannot however be said that they are altogether *complete*. A complete account and an accurate account are two different things. We are aware that transactions in the various departments and the various provinces may not have been completely adjusted. The matter is one of exceeding difficulty, and it is to be feared that, however we may manage for the future, it may be found very difficult to reconcile all such past inter-departmental, inter-presidential, and inter-provincial transactions. I do not say that it would be possible to compile the accounts of the last ten years into one, and present the whole as a perfectly true account. This is much to be regretted, and the system cannot be said to be satisfactory so long as such a blot remains. I do not however apprehend that these are the errors that have been so repeatedly referred to. As far as the accounts go, they are absolutely and substantially correct, and the margin of incompleteness is exceedingly small.

"But I have observed that a great many remarks have been made in which an extraordinary confusion of idea seems to prevail with regard to estimate and account. It is impossible to conceive anything more different in nature than the estimate of the Financial Department for the ensuing year and that of the account of the same Department for periods which have passed. Account is a record of fact, estimate is a matter of opinion and forecast; there is as much difference between an account and an estimate as there is between a good eight-day clock and the divining rod of a magician. An American humourist, Mr. Artemus Ward, gave a very sound advice to his disciples when he said—'Never prophecy unless you know.' Now unfortunately my hon'ble friend is obliged to prophecy when he does not know, when he cannot know, and when no one else knows. And when gentlemen accuse the Government of extraordinary inaccuracy in estimating, they forget this, that an estimate is a matter of opinion and is to a great extent a prophecy. My hon'ble friend Sir Richard Temple described with

great force in his financial statement the difficulties that are to be met in this respect. The Indian estimates are an aggregate of facts, collected over an immense area by a large body of officers. These facts are carefully adjusted, compared with the estimates of former years, analyzed and summed up; and from this mass of evidence deductions are drawn. Owing to the peculiarity of some of these chief items of revenue,—items which hardly exist or are totally unknown in many countries,—the difficulty is vastly increased. It is not possible to avoid error. The most sagacious man cannot foretell the price of opium for a month, far less for a year, and opium produces nearly one-sixth of our revenue. The land-revenue (which gives two-fifths of the revenue) is also subject to risks which no man can foresee. The traffic receipts of the Railways fluctuate considerably, and depend to a great extent on the general prosperity of the country. The customs revenue fluctuates also to a great extent according to the condition of the people.

"We have been advised to meet the difficulty by what is called 'sanguine estimating.' I think it is quite right in estimating to leave such a margin as will in our opinion secure our calculations from some of the disturbing causes which I have mentioned; but sanguine estimating, which informs the country beyond or within the facts that are in our possession, for the object of diminishing or increasing taxation, is in my opinion nothing less than dishonesty. I am sure my hon'ble friend Mr. Robinson would be the last man to recommend anything like dishonesty; but what he appears to suggest is that we should disregard the facts which were laid before the Government and come to a different conclusion from that which we thought these facts would warrant. I cannot help thinking that if we had taken that course, we should not have been acting in accordance with the principles which ought to guide us in all our transactions. We think we know a good deal about finance, but certainly we do not know any thing about 'financing;' and it is our duty to present the public with the most accurate results we can obtain, and the soundest opinion we can form. We never can and never will take any other course.

"But with regard to this accuracy of estimate, the Secretary of the Financial Department has supplied me with a curious statement, showing the comparison of English, and also the Indian, Estimates with Actuals.

"The English Accounts are on the average better than the Estimates, whereas, hitherto, the Indian Accounts have been on the average worse than the estimate. It is intended to take precautions against a recurrence of this, but it of course involves some additional severity in providing ways and means. But the Indian Estimates appear to approximate more closely to facts

than do the Estimates in England. It is curious that if we compare the English Estimates for the last ten years with the Actuals, we find that the annual average difference of actual from estimate was £2,132,700 on a revenue varying from 70 to 74 millions. In India the annual average difference from estimate was £1,874,600 on a revenue varying from 41 millions to 50 millions; so that we find that, notwithstanding all the difficulties which lie in the way of the Financial Member in laying his statement before the public, his estimate does not compare unfavorably as to accuracy with that made by the Chancellor of the Exchequer.

"It has frequently been stated that a great deal of our misfortune has arisen in that we have given undue liberty to the Public Works Department in the way of expenditure.

"Let me remind the Council as to what has been done in this respect. It is probable that some useless works have been stopped, but at the same time a great many useful undertakings have been unavoidably postponed. The fact remains that, whilst in 1868-69 the expenditure was £6,272,000, and in 1870-71 £4,797,000, for the present year it is £3,802,000; so that the expenditure in the Public Works Department has been reduced by nearly one-half in the period named.

"But the most serious charge made is, that the public was unnecessarily taxed in 1870-71, that is in the present year; that there was no necessity to raise the income-tax to the extent it was done, and that the surplus of nearly a million which had been obtained shows that grievous error was committed. If after what has occurred we had been over-careful, and taken our estimates of revenue somewhat low in order to make security doubly sure, even as "skilful surgeons cut beyond the wound to make the cure complete," we should not have been much to blame. But we did nothing of the kind. The estimates on both sides were as near the known facts as we could put them. As my hon'ble friend has reminded the Council, the surplus which has been attained this year has arisen from one special cause, namely,—Opium. We had no right to take it otherwise. We took it at Rs. 975 a chest. There had been a steady fall in price for months; we consulted all the authorities which were available, and I know that my hon'ble friend opposite (Mr. Bullen Smith) entertained the same gloomy anticipations as we did with regard to price for the remainder of the year. But on this particular occasion, while the estimate was being prepared, we had the advantage of the advice of Her Majesty's Minister in China, Sir Rutherford Alcock, a man who had spent his whole life in that country; he gave us, in this very room, at great length, his

views as to the course that he thought the opium trade was likely to take. Nothing will tend more to show how untrustworthy are any forecasts with regard to opium when I state that on this particular occasion we were in possession of better intelligence, and what might have been supposed more accurate information than we ever had before.

"However, all the great authorities were wrong. The market, soon after our estimate was made, took an unexpected turn; prices rose, and the result was, that in the article of opium alone we have received about £900,000 more than we expected.

"I will not condescend to notice certain unworthy charges which have been made against the Department, such as 'cooking accounts', 'adjustments made to suit convenience', and 'credits taken which did not exist'. They are utterly baseless and reflect no credit on those who made them. Had some of them been uttered against the Directors of a respectable Company, the probability is that they might have subjected those who made them to those liabilities which the law provides as a protection against libel and defamation.

"But I have said enough to show that in reality there was no unnecessary alarm in September 1869; that the accounts of this great Empire are as correct as accounts of so complicated a nature can be; that in accuracy our estimates compare advantageously with those of other countries, and that unless we had been prepared to endure another year's deficit, and, I may say, financial disgrace, the measures of last March were absolutely indispensable.

"I now propose, with the permission of the Council, to advert briefly to our future prospects. I do not mean to indulge in any boastful or over-sanguine anticipations. I know how uncertain is the future, and especially the Indian future, and how possible it is that the cerulean atmosphere which now hangs above our heads may turn to clouds and storm. But as to our duty in the present aspect of affairs, we entertain a very decided view. Our public duties are many and various. There are duties with regard to our Native and European Services, and towards those men who serve Her Majesty so well in the several departments of the State. There are duties which have been today referred to by His Excellency the Commander-in-Chief with regard to providing for the comfort and health of our European Army, which we have conscientiously discharged and which we hope to continue to discharge. There are various duties which the Government must always perform towards commercial and industrial enterprise and also with regard to national defence.

"There is a great deal of nonsense talked about despotic rule in India. If despotic rule means the unrestrained and unregulated will of any one man or of any body of men, I say no such thing exists. Here, private right and individual liberty is guarded as strictly as it is in any country in the world. Freedom of action and of thought everywhere prevails. But we cannot conceal from ourselves the fact that we administer a system of Government under which the rulers are appointed by a Sovereign who by her responsible Ministers rules in a far and distant land.

"By this very fact are our responsibilities vastly increased; for rulers who are nominated without consultation with the people whom they govern are bound to exercise more circumspection than those who derive their powers from popular representation; and a deep obligation is placed upon us to govern with firmness but mercy, with kindness and with care, those weaker natures which are entrusted to our rule.

"In administration, taxation must always form a leading feature. When you touch the pockets of the people, you touch at once their feelings and their hearts.

"The people of this country never had the power of self-taxation, and I am not at all clear that if they had, they would have made a proper use of it. But for good administration in India, vast funds must be provided, great expenditure must be incurred, and Government must be carried on with much strength and some splendour.

"In view of these facts, our clear duty is to refrain from imposing any burden upon the people of this country beyond that which we can honestly say is necessary for good government and for the permanency of that rule which we believe is calculated to confer benefits upon the nation.

"How are we to avoid unnecessary taxation? We can avoid it by absolutely setting our faces against anything in the shape of waste; by rigid economy; and by retreating from many of the extravagancies which have from time to time been committed. If we set ourselves firmly to this task, we shall certainly accomplish it.

"The most variable sources of expenditure have been made over to Local Governments, by which more economy and care will be exercised, and which I have reason to hope will not increase unduly the burdens of the people.

"We have secured the imperial revenue from main elements of uncertainty, and if we follow the dictates of prudence, I am sanguine enough to believe that that normal increase of resources which the growing prosperity of the

country must yield may be made, and can be made, to suffice for future imperial wants.

"But we must look at the matter in a practical point of view. We must recollect that our future liabilities are heavy, and that among other things the growing charge for interest is exceedingly serious.

"My hon'ble friend Sir Richard Temple has stated that, since 1869-70, we have borrowed ten millions of money, throwing a permanent charge upon our revenues of £450,000 a year. The registered debt of India will this year amount to 106¾ millions, and we have to pay guaranteed interest on Railways to an amount of nearly 90 millions more.

"In this view of the case it is necessary to consider our future liabilities and the danger they involve if they are not boldly and judiciously dealt with. No one who is aware of the facts I am about to adduce can come to any other conclusion than that the day is far distant when anything in the shape of what is called 'financial pressure' will cease, and that all those who have to administer the finances of this country for the future must administer them with the most watchful care.

"In the despatches which were submitted to the Secretary of State last year with regard to Railways and Irrigation, a variety of works of the highest importance were named.

"In Irrigation we suggested works, either commenced or not yet in progress, which will cost 39 millions, three millions of which have been already spent, leaving for further expenditure under this head a sum something like 36 millions.

"The Railways we recommended, even if they are to be constructed on the most economical principles, must cost from 26 to 28 millions. Additional capital will probably still be wanted by the guaranteed Companies to the amount of some eight millions.

"We have lately inaugurated a system of lending money to Municipalities which, we believe, will contribute much to the health, wealth, and comfort of the inhabitants of towns. It is possible that we shall be called upon to advance to Municipalities in the next few years a sum amounting to ten millions. We have introduced a Land Improvement Bill this year, which will also throw an additional charge upon our loan funds, and it is probable that we shall spend three millions or more under this head.

"Speaking roughly, and looking forward according to our present lights, we cannot think that anything less than a sum of 85 or 90 millions will be required

to be borrowed for those purposes which we think indispensable to the improvement of the country and the welfare of the people. This is an enormous charge, but I firmly believe it can be met without difficulty, and that, if rightly dealt with, the works can be carried on without throwing any serious burden upon our general revenues.

"As to Railways, we believe that most of the lines which we have suggested can be made in a manner in which they will not be likely to create any permanently inconvenient charge. This can only be done in one way, namely, by materially lessening the original cost. Indeed, there is an absolute necessity for this. The future lines are never likely to bring in the return of those now in existence. The richer districts are already occupied by Railways; the great arterial lines are completed; nearly 5,000 miles are open through the best parts of the country; they impose a charge in the shape of guaranteed interest on our revenues over and above the nett traffic returns of £1,856,000. We propose to build 5,000 miles more, and I believe we can do it; but not one of these can be expected to produce the returns of the Great Indian Peninsula, the East Indian, or the Eastern Bengal Lines.

"Now, suppose that we continue to build Railways at anything like the cost of the existing lines, it is not too much to say that, at the end of fifteen or twenty years, we should possibly find ourselves paying out of revenue, instead of £1,856,000, something like three or four millions of interest.

"We may expect a certain steady increase in our traffic, but there is no symptom of a sudden rush or outburst of Railway returns such as we have often witnessed n Europe or America. It is true that, since the year 1867, there has been a steady increase on the East Indian Railway of nearly half a million of tons of goods traffic in four years; but on the Great Indian Peninsula I find that in the year ending June 1867, with 815 miles of Railway open, they were carrying 1,046,000 tons, and in the year ending 30th June 1870, with 1,200 miles of line open, they were carrying only 1,057,000 tons of goods. On the Madras Lines at the same period, with a considerable additional number of miles open, they were carrying, in the year ending 30th June 1867, 373,000 tons of goods, whereas in the year ending the 30th June 1870, they only carried 354,000 tons. The Sindh Line in the same year carried 201,000 tons of goods, and fell off in the year 1870 to 80,000. On the Panjáb Lines no substantial difference occurred between those periods; but the Great Southern of India carried, in the year ending June 1867, 70,000 tons of goods, and in the year ending June 30th, 1870, with an increase of mileage, only 66,000 tons. The Native passenger traffic bears very much the same proportion to that of the goods on all our Railways. In the last days of 1867, there were 3,909 miles

open, and in the end of 1870 there were 4,730 miles open. The goods traffic on all our Lines increased only from 2,900,000 tons to 3,500,000. The entire traffic now on our Indian Lines is 4,700,000 tons, or about one-fourth of that on the London and North-Western, with four times the mileage.

"It appears to be doubted whether the Lines that we propose will be sufficient to carry the traffic, and it is held by some that we ought to continue to construct on the five feet six inch gauge.

"It is said that the present gauge is not too broad, nor the stock too large. I would ask the Council to compare, for a moment, the 1,000,000 tons yearly of the traffic of the East Indian Railway, with the ten million tons of the Midland Railway in England, on a not very different length of line; or to compare the 300,000 tons of traffic on the Madras Lines, with the 1,400,000 tons of the London and South-Western, on an equal length of line, and then ask whether it is necessary to build Railways stronger and bigger in every respect for Indian traffic than those that are carrying these enormous loads.

"It is interesting to calculate what would have been the result if we had built some of our smaller Lines on the plan which we suggest. The following comparative statement of actual and probable charges will show that a considerable saving might have been effected; and that instead of paying two per cent., they would be paying nearly five per cent.; whilst the Imperial Revenue would be saved a sum of £730,500, whilst the requirements of the public would be equally satisfied:—

Smaller Lines.

Railway.	Miles open.	Actual broad Gauge.			Probable narrow Gauge.			
		Capital, Millions.	Net Income.		Capital, Millions.	Cost per Mile.	Net Income.	
			Amount.	Per cent. on Capital.			Amount.	Per cent. on Capital.
			£.			£	£	
Madras ...	834	10	285,000	$2\frac{3}{4}$	$5\frac{1}{2}$	7,000	285,000	5
Great Southern ...	168	$1\frac{1}{2}$	32,500	$2\frac{1}{4}$	$\frac{3}{4}$	4,500	32,500	$4\frac{1}{4}$
Bombay and Baroda ..	307	$7\frac{1}{2}$	200,000	$2\frac{1}{3}$	$2\frac{1}{2}$	8,000	200,000	8
Sindh ...	108	$2\frac{1}{2}$	7,500	$\frac{1}{8}$	$\frac{3}{4}$	7,500	7,500	1
Panjáb ..	252	$2\frac{3}{4}$	35,000	$1\frac{1}{4}$	$1\frac{3}{4}$	7,000	35,000	2
Delhi ...	302	$4\frac{1}{2}$	115,000	$2\frac{1}{2}$	$2\frac{1}{2}$	8,000	115,000	$4\frac{1}{2}$
Total ..	1,971	$28\frac{1}{2}$	675,000	2	$13\frac{3}{4}$	...	675,000	$4\frac{7}{8}$
Net charge per annum make up five per cent.		£748,000			£17,500			

Saving per annum £730,500.

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"This ought to prove how cautious we must be in embarking in new lines, and how carefully we must count the cost if we are to continue to discharge our duty to this country in constructing these indispensable means of communication.

"Every day confirms the soundness of our decision in adopting a narrow gauge. An able writer, who has been discussing the question in the Bombay Newspapers, entitles his letters '10,000 miles of Railway for 5,000.' But I say 'Railways at £6,000 or £7,000 a mile, or no Railways at all.' We believe that the gauge we have adopted of three feet three inches will meet every requirement, and I cannot conceive why we are to construct lines which are and must be far above the requirements of the country for a great number of years, when we can show that the system which we recommend will do for us all we want. If a gentleman of small means, who proposed to start upon a journey, purchased an elephant in order to carry a donkey-load of baggage, I am afraid that his friends would consider him to be possessed of that limited amount of intelligence which nature has bestowed upon the humbler animal.

"The great objection which has been urged to the system is the 'break of the gauge;' I admit it is serious, but I believe it has been greatly exaggerated. The cost of transhipment has never been placed above the cost of carriage of more than about twelve or fifteen miles, and in some respects, as regards the Native passenger traffic, and in other ways, by good arrangement, the inconvenience can be reduced to a point that will be hardly felt.

"As far as Irrigation is concerned, we hope to be able to take somewhat the same course that we have done with the Railways, and keep down as far as possible the first cost of the works. The estimates will be made and carefully criticised, and I may say, without fear of contradiction, that the officers who are engaged in designing these great works are, in this particular branch of their profession, as experienced Engineers as any in the world. I have no reason to believe that the estimates which they have made, and the opinions which have been formed, will in any serious degree be contrary to the anticipated result.

"But, beyond this, we must use every effort to make all these irrigation works really productive and self-supporting.

"We must establish a system of irrigation and finance that will throw the main burden for the repayment of the capital and interest expended on these works upon the land which benefits by them. We must follow the same principles which have been adopted by every other country in the world in which similar undertakings have been constructed. We must take such measures as will oblige

the people who are enriched, whose lives are preserved, and whose wealth is augmented, by these works, to contribute in a fair proportion to the cost of their construction.

"We desire to individualize as much as possible each work, in order that the public may be made fully aware of the terms under which it is constructed, its cost and its returns. We desire to separate as much as possible the finance of our reproductive operations from the ordinary finance of the Empire.

"We have endeavoured to give effect to some of these principles in the Canal Bill which is now before the Legislative Council, but which I regret to say we have not altogether succeeded in making acceptable to the public.

"I am surprised at the resistance with which our intentions in this respect have been met. Everybody seems to desire irrigation, but many seem to desire that somebody else should pay for it. But as a matter of principle, the people in Madras should not pay for the enrichment of the Panjáb, nor the people of Bengal for the irrigation of Sindh. Unless the Government is supported in organizing a system by which these works can be constructed without placing further serious charges upon Imperial Revenue, I greatly fear many of these important operations may not be undertaken at all, or if they are undertaken, they may run the risk of being stopped before they are finished. We wish to make these works as self-supporting and as independent as possible; in fact, to put them in such a position that if war, famine, financial difficulty, or other misfortune occurs, they will continue to progress, and go on even to completion.

"But if we continue, or rather attempt (for these works are only in their infancy), to construct them on the system of mixing up their accounts with the ordinary accounts of the Empire; if we think we can pay the interest of the capital expended on them out of the revenues of the year; if we do not extend to their finance, generally, the severest and most business-like principles; we shall possibly have in a few years to witness, either financial difficulty, or the stoppage of some of these great and beneficent works.

"Why did some of the great Railway works in India progress during the whole of the mutiny? They were carried on under great difficulties; but the work progressed even in districts which were disturbed; we know this was due to the lines being independent of Government, and because their finance was entirely removed from the ordinary revenue and expenditure of the country.

We can take the same course with our State works; but unless we can put them somewhat in the same position, and make them self-supporting and independent of the ordinary circumstances and fluctuations of revenue and expenditure, we shall I fear be doomed to disappointment.

"With regard to Municipalities, we propose to make loans to them for carrying out works of improvement, but we do not intend to make advances of this nature without careful investigation, and until we have first ascertained that ample provision can be made and security given for the repayment of both interest and capital. I believe there will be no objection to, or difficulty in, carrying out this scheme, and I have no reason to think that the Municipal bodies themselves will be unfavourable to it.

"Under the Land Improvement system we have to extend the well known system of Takkávi, and put it under more precise rules; and it is not probable that there will arise the smallest cost to Government under this head. By these and no other means can all these great works—whether Irrigation, Railway, Municipal, or Land Improvement Works—be carried on, without, as far as we can judge, throwing any very heavy charge upon the future resources of the Empire.

"I am afraid I have already detained the Council too long and must hasten to conclude.

"For the future, then, in regard to ordinary expenditure, we shall ever labour to attain in each year such a small surplus as will show the world that our finances are in a satisfactory state.

"We do not propose to estimate distinctly for a surplus, neither do we propose to tax the people for such a purpose. But the finances of a country cannot be in a perfectly healthy state unless the receipts of the Government somewhat exceed the expenditure in each year.

"Surplus means sunshine, certainty, reduction of burden, and extension of important works. Deficit means clouds, uncertainty, hesitation, increase of taxation, and the stoppage of much good and useful work. Be it large or be it small, those evils must always to a greater or less extent occur. We shall therefore continue to exercise the most rigid scrutiny into every branch of our expenditure. We must also exercise that continual care which is essentially necessary to secure us against its constant growth.

"With this object we ask, and I do not think we shall ask in vain, the generous support of all those who are concerned in the conduct of Indian administration. We are bound to act on our belief, that if increased cost takes place under

certain heads of expenditure, which I fear is to some extent probable, it must be met by reduction of expenditure under others.

"I ask, therefore, the various Governments and the various Heads of Departments not to bombard the Government with applications and demands for increased expenditure except in cases of the most urgent necessity.

"We are determined not to run into debt nor to borrow for ordinary expenditure. We expect that in our efforts we shall receive unanimous and hearty support. We say to the public,—'criticise severely every part of the expenditure; discuss it; offer opinions about it; do not advocate petty parings and savings in small details, but devote your criticisms to general expenditure and to the large establishments, for there it is that safety is to be found.'

"We labour for two objects which must command universal support: first, to restore Indian Finance to a healthy state; and, secondly, to avoid any further increase of imperial burden.

"For the present, at least as far as I can judge, we have secured the first, and for the second we must ever and constantly labour if we are to attain success. I will not, as I said before, further refer to the violence of the various attacks which have been made upon the Government because we endeavored to do our duty. In the success of our schemes we can well afford to forget the acrimony with which they have been assailed. My hon'ble friend (Sir Richard Temple) has sustained an amount of odium, and has endured an amount of abuse, which to him would have been perfectly intolerable had he not known that his object was good and that success was nigh. I say of the terms in which my hon'ble friend has been assailed, that a great deal of it has been cowardly and almost all of it unjust.

"Whether it will continue I know not. But one thing I know, that when all these misstatements and this abuse and odium are forgotten; when all the malice and uncharitableness that has been expressed towards men who have been honestly doing their duty has passed into oblivion, the future historian of India will be forced to record that, in eighteen short months, the finances of a mighty empire were rescued from a state of chronic deficit and certain danger. That in six months, not without great sacrifices and much risk, equilibrium between revenue and expenditure was obtained; that in the following year substantial surplus was shown in the imperial accounts. That all this was effected, not by swelling the burdens of the masses; not by cheese-

paring and cutting down the pay and allowances of the humbler servants of the Government; not by wild and temporary reductions which so impair efficiency that they ultimately lead to greatly increased expenditure, but by increasing for one year the burden of taxation, four-fifths of which fell only on the well-to-do part of the population and from which the very poor escaped.

"He must also record that this end was also attained by a calm and critical search into our expenditure and by great reduction of outlay; and that future security was gained by associating with ourselves in financial responsibility a large amount of local authority and local interest.

"He will have to record that during this year, those great works of irrigation and preparations for the commencement of a new system of Railways have been pushed vigorously on, and that in many ways, though a reduction in our military charge has been effected, our military strength has been materially increased. New and improved arms for the Army have been provided; large and costly defences have been added to our principal harbour, and in many other ways our defensive strength and that of our military marine have been increased. No other story than this can ever be told except at the expense of truth; and be it now or hereafter, wherever it is really known and impartially discussed, I am certain we shall receive that full meed of public approval which is the highest reward of public service."

The Motion was put and agreed to.

CUSTOMS DUTIES BILL.

The Hon'ble SIR RICHARD TEMPLE also moved that the report of the Select Committee on the Bill to amend the law relating to Customs Duties be taken into consideration. With His Lordship's permission, he would just read to the Council the Report of the Select Committee on this Bill. The Report said—

"We have expressly declared that no opium shall be exported from British India, unless it be covered by a pass.

"We have also introduced a clause providing for the levy of duties on goods crossing the frontiers of the foreign European Settlements situate on the coasts of the Presidencies of Madras and Bombay.

"We have added to the schedule of repealed enactments Acts VI of 1844, schedules A and B, and XXIX of 1857, section 2."

The Motion was put and agreed to.

The Hon'ble SIR RICHARD TEMPLE then moved that the Bill as amended be passed.

COLONEL the Hon'ble R. STRACHEY said:—"My Lord, I am unwilling to allow this Bill to pass without saying a few words regarding it. If I did not know that it was impossible for the Government to give up the revenue which it is proposed to raise under the Bill, I should have opposed it, at all events in part, for the same general reasons that have led me to vote for the measure just passed, namely, that I think there are certain descriptions of taxation which are essentially bad, as I think there are others that are equally good. Among taxes that I regard as essentially bad are Export duties, and such duties we are asked to assent to by the present Bill.

"And I have a special reason for desiring to draw the attention of the Council to this subject in a pointed manner. It is a misfortune which the form of the Government of this country almost necessarily imposes on us, that our administration is altogether conducted by a separate official class, without that most useful co-operation of the non-official classes, which is possible under other systems of Government. I do not of course under-value the aid which is given to the Government by my hon'ble friend on my right (Mr. Bullen Smith), and the other commercial gentlemen, who, from time to time, have sat in this Council, but as we were reminded in very plain language a few days ago, this is not a House of Commons and the Government is not carried on by this Council, but by the Executive Government; and my hon'ble friend will, I am sure, agree with me in recognizing the fact that a seat in this Council gives very little power of controlling the practical administration of the country, or of directing its policy.

"I do not intend to give the Council a lecture on the art of Government, and I do not propose to suggest any remedy for the difficulty I have stated. What I wish to do is, to draw attention to the fact that there is very much left to be done in the way of reforming the commercial taxation of India, and that it is a serious error, to which a Government constituted such as ours is will necessarily be prone, to exaggerate the relative importance of administrative reform and to neglect what is really due to economical reform. I have no hesitation in declaring my own belief that in the last eight or ten years this has actually happened, and that the whole of the available resources of the State have been applied too exclusively to administrative improvements, in themselves no doubt valuable, but not more valuable, to say the least of it, than the other class of improvements to which I have referred. If, as I hope, the Government of India has, after recent events, resolved to do its utmost to check that incessant expansion of the Civil administrative charges which I lately discussed

at some length, it will assuredly be its duty to regard the demand of an enlightened customs policy as among the very first objects to claim attention, when the natural further growth of the revenues permits it. If then I may venture to offer advice on such a subject, it would be that the first measure which the Government of India should seriously take up after a permanently healthy condition of the finances has been established, is the complete reform of the Tariff and the removal from it of the blots which now so greatly disfigure it.

"The worst of these blots no doubt are to be found in the Export Tariff. And I should perhaps explain to the Council why I have said that export duties are essentially bad, for no doubt those who first imposed them, and now retain them thought and think better of them, than I do. I regard it as an axiom in taxation that it shall as far as possible fall on the fund destined to supply consumption and not on that which supplies production. An Export duty necessarily falls on the producers. To tax the export of rice, is to do what is virtually equivalent to rendering the soil on which that rice was grown less productive. To tax the export of cotton goods manufactured in India is to do what, in its result, in no way differs from any material obstruction thrown in the way of such a manufacture. By the imposition of such taxes, the inducement to the production of the things taxed is reduced in India, and an additional stimulus is given to competition in other countries. It is of course true, that among export duties that is least noxious, which is imposed on any article having a virtual monopoly in its markets. But as a fact all experience proves that nothing has such a monopoly. India can tell the tale of its saltpetre trade destroyed by export duties. Is India also to destroy its export rice trade? Will it stimulate to the utmost the production of other dyes to compete with its indigo? Will it drive its own sugar out of its own markets for the benefit of the Mauritius? Even in that commodity of which India apparently has the most important monopoly, opium, the competition of the local Chinese market, is already beginning to be felt, and there are those who foretell the ultimate destruction of our export of this drug. Only today I have read of a commencement of opium production in the United States of America. But whatever is the immediate consequence of export duties in special cases, it is quite certain that the necessary tendency of the growth of knowledge, the spread of commerce, and the increase of competition, is to bring all producers more and more nearly to a level, and to reduce more and more the special advantages of any of them. Under such a competition, the law which has for other purposes been called a law of Natural Selection, will eventually destroy the industry which is weighted the heaviest, and export duties will thus constantly be tending to destroy the commerce of the country that imposes them.

"The gross receipts from the export duties for the year 1870-71, reckoned from the actual accounts of the first eight months by adding one-half, would be £528,000. Of this, two articles, grain and seeds, paid £465,000, and all others £62,500. Among these last have a place, by a refinement of barbarity, two of the very few manufactures of which India can boast. Cotton goods and leather pay £21,000 together. Indigo, oils, lac, and spices, articles requiring either to be manufactured and specially dealt with, to fit them for the market, figure for £28,500. I confess that I am at a loss to supply the arguments by which the retention of such duties can be justified in preference to refusing an infinite variety of petty administrative demands, among which I am quite content to class requirements for public buildings and such matters, which have been allowed to swallow up the money that to my mind would so vastly better have been applied to getting rid of these senseless and positively mischievous hindrances to the growth of the wealth of the country. The refusal to supply funds for the Godavery works and the Karáchi harbour, for instance, would have permitted of the abolition of all export duties except those on grain and seeds, and if the choice had been left to me in such a matter I should have had no sort of hesitation in taking off the duties. Of course I don't say that of all expenditure that might be stopped that which I have mentioned would be the best to select, but I accept the test of a practical application of my principles, and I have said where I could find a reduction which would suffice in the absence of any better.

"I do not know that I should be disposed to agree with my hon'ble friends who have spoken of the grain duties as being those which most demand attention, though I fully assent to their condemnation of them absolutely. I regard that duty as the worst which is most in the nature of a class duty, and which at the same time is least productive. Now all these little productive export duties are essentially class duties and inflict special injury on a small body of persons employed in particular trades. Inasmuch as the rice duty falls on a large area it is less obnoxious and not more, and it partakes more of the character of a general tax on agriculture. I fear that the true reason we hear more of it than of other worse duties, is that it affects a greater number of influential persons who can complain, and not that it is really more obnoxious to censure.

"And here I would say a word as to how bad a test of the character of a tax is mere *absence* of complaint. The sugar production of the North-West Provinces, to take an instance that has been lately referred to in this room, may be utterly strangled by export duties levied hundreds of miles away

in the Panjáb, Central Provinces and Rájputána, of which the grower of the cane probably never even heard. And so it may readily be with all industry. The poison is absorbed into the system imperceptibly, and the victim dies without a struggle it is true, but not the less surely.

"The sugar duties of which I have just spoken are without doubt the most discreditable relic of the dark ages of taxation that yet subsists in India. A ten per cent. *ad valorem* duty is deliberately retained on the export of British sugar into Rájputána, and into our own territories on the wrong side of the customs line drawn across northern India, by a Government, which has for years past preached to the very States on whose borders this tax is levied; the impropriety of doing this very thing which is defended to the present day chiefly, because it yields £120,000 or £130,000 which it would be inconvenient to give up. I have rejoiced to hear the head of the Government say that he thinks this is among the matters first to be put to rights, in any future revision of the public burdens, and I cannot see how there can be a difference of opinion on the subject. These sugar duties have been defended, by persons who should have known better, on the ground that no one complained of them. It shows a truly melancholy want of insight into, or consideration of, the action of such imposts, on the part of those who supervise this part of the administration, to find these duties in existence at the present day, and I trust that another year may not elapse before some step at least is taken towards extinguishing them.

"And before I leave these export duties, let me ask why is it that the cotton goods manufactured on one side of the Húglí are taxed, while the jute on the other goes free? Why does the cotton grown side by side with the indigo, escape the duty which the other staple pays? The reply is obvious. The customers of the jute mills and the purchasers of the cotton live in England, and can make themselves heard, and have made themselves heard and feared. Here, for such reasons as I have mentioned and in the absence of the natural defenders of the suffering interests from the councils of the Government, the true principles of taxation have too long been neglected for the sake of obtaining a revenue really insignificant in amount, and the necessity for which might quite easily have been avoided, by proper firmness in refusing the expansion of expenditure.

"But I fear that my bill of indictment against the customs duties does not end with the export tariff. As I before said the true test of character of a customs duty is that it shall fall on consumers. Now there are several items

of the import tariff, and one an important one, that does not comply with this condition. The first on the list is metals. It is true that iron is taxed lightly at one per cent., but all other metals are taxed at 7½ per cent., and almost in all cases such metals are in truth used in manufactures, and are not in any true sense articles of consumption. Naval stores come under the same description, also hides, and paints and colours, and there may be others, which for the most part stand at 7½ per cent.

"Railway materials, I need not say, come under the same condemnation, but this duty is yet more objectionable; for it is either paid by the Government in the form of guaranteed interest in case of materials used on an open line, or if for a new line it is charged to the capital account of the Railway, and is converted into debt-bearing interest at 5 per cent. for ever. Now that the Government is about to commence Railway construction, the absurdity of this duty will perhaps become more obvious, and I hope that it will not make its appearance in another tariff. The aggregate of the five items which I have named is £225,000.

"Excluding these items, I find that the ten largest amounts, of which the lowest is £15,000, yield together £1,444,000, and that all the rest, 39 in number, together give only £134,000. The whole list comprises 54 items. I cannot consider that it is desirable to maintain such a tariff as this, several of the items of which do not produce £1,000. Among the most miserable of the list are the two last additions to it, the mere mention of which will, I think, sufficiently indicate the spirit which has governed the commercial policy of the Government in late years—corals and lucifer matches.

"Many of the items in the tariff are moreover open to objection as being class-taxes. Such are the duties which exclusively, or nearly exclusively, fall on the Europeans resident in India, and of these a long list might be enumerated. Although it would, no doubt, be indefensible to place Europeans in a better position than the natives of the country in these matters, yet to do the converse is still more indefensible; and I consider that many of these duties press most unjustly on the class to which I belong, and I think that I should be neglecting my duty in this Council, and to that class, if I did not say it in perfectly plain terms. The European has at least as much claim to my sympathy in matters of taxation as the sugar-grower of Northern India, or the indigo-grower of Bengal, or cotton-spinner of Bombay. In all these cases I affirm, are grievances in the matter of taxation far more onerous than those of which we have, within the last few weeks, heard so much, and having this distinctive character that they are as real as the others were imaginary. And I

may add that for my own part I should be glad to hear the voice of the House of Commons require the Government of India, if it were necessary, which I hope and indeed believe it will not be, to do what is necessary for the removal of evils such as I have mentioned in the interest of Great Britain, for she has a great interest in them, and may justly defend it, as well as in the interest of India itself.

"I am of course quite aware that it is not possible in a summary way to take off these duties, and I am anxious not to be supposed to suggest such a course. But what I affirm is, that the first occasion should be taken to reduce the list, and to carry out the other reforms of which I have spoken; and that such an occasion can only be found by a resolute determination on the part of the Financial Administration that there shall be no addition to the expenditure which shall prevent these necessary fiscal reforms. A distinct and positive policy must be adopted and acted up to, or nothing in this direction will be possible. I am too well aware of the incessant and insidious demands for money for mere administrative purposes, and I know the difficulty of resisting these demands, and I repeat, therefore, with special emphasis what I believe to be the only rule of action that can lead to success.

"Neither am I satisfied that even this amount of reform is all that we can fairly hope to see carried out. I go further still.

"And in the first place, I reject entirely the doctrine that we do well to maintain a high rate of duty on the piece-goods imports. Whether Manchester be selfish or not, and no doubt it has been loudly asserted, it is not for me to say; but this I know that the men of Manchester gave England free trade and understand the real requirements of commerce and progress vastly better than those statesmen who put export duties on such products as tea, and coffee, and grain, as well as on the few manufactures India ever had, and who maintain transit duties in the heart of our own provinces to this very day. I say then that those who ask for a reduction of the duty on piece-goods may at all events possibly, and to my mind have actually, a very substantial ground on which to base their argument, quite apart from mere personal interest, though no doubt this is one of the motives of those who object to high duties, and a motive which is a perfectly proper one.

"The truth is, and it lies on the surface, that exports are best paid for by imports, and that if a fair return in the shape of imports is not taken, the export trade is carried on at a disadvantage. Everything which enlarges the consumption of imports opens the way for a further production of exports.

Now, obviously the best way of enlarging consumption is to reduce price, and even a very small fall of price may in a very important degree influence the total amount of trade. In the particular case of piece-goods, moreover, every increase of consumption tends to add to the demand for the raw material, and thus in another way to stimulate Indian production.

"And let me here further remark that it by no means follows that a duty is not mischievous because it only adds one, two or three per cent. to the cost of goods. It is precisely these small amounts which in the end determine whether trade is possible or not; and in the present condition of commerce, with its vast extent and close competition, it is altogether erroneous to say that a duty is not important because the rate is low.

"Nor does this finish my demands in behalf of the commerce of India. I do not affirm that it can at present be said to be within the limits of the practicable to make all the ports of India entirely free; but this is certain, that there is hardly any sacrifice of present administrative progress, that I can conceive of, that would not be a reasonable price to pay for the vast benefit of complete freedom of the export and import trade of India. The customs duties at the present time are not of a magnitude to render this idea in any way chimerical. The whole amount at stake is about 2½ millions. Of this there is some portion that it might reasonably be thought right to retain; and though I have no specific plan to propose, I should conceive that some system might be adopted by which a certain revenue could be obtained by stamps on the documents relating to the import and export of goods. So far as this were possible, it would reduce the sacrifice to be made. Now, even if this amounted to two millions sterling, I can at once indicate a possible source for meeting it. When I placed before the Council a statement of the recent growth of the public expenditure, I also noticed that there had been a growth of the revenues in the last ten years of something like £3,900,000, after allowing for increase of charges of collection, but that of this amount £2,700,000 had been eaten up by growth of civil charge. Let the revenues then continue to increase as in the past, let reasonable attention be given to the due assessment of the land revenue, and the proper protection of the rights of the State to share in the profits derived from land in conformity with ancient usage and theoretical justice, and let the growth of civil charges be stopped for ten years, and the difficulty is removed. And without taking any extreme view, it seems to me quite reasonable to look forward to such a growth of the revenues as shall render possible, if not such a complete adoption of free trade as I myself would advocate, at all events a fair approach to it.

"I need not speculate on the probable results of such a policy, if carried out; but I may point to the wonderful effects of the adoption of a modified form of free trade by England, and say that it seems to me certain that the greatest benefit would be obtained by following a like course in India.

"I should perhaps mention that the suggestion that I have put forward of a possible complete or almost complete abolition of customs duties in India is not due to me. It originated, so far as I am concerned, with Mr. Robert Knight, a gentleman to whom the best interests of Indian finance and commerce are much indebted. If in some particulars I do not adopt his views, yet it is a simple act of justice to bear testimony to the value of one of the few real critics to whom the Indian administration can look for assistance in the onerous task that rests upon it.

"In conclusion, I will only further observe that I look forward to the action of the newly constituted Department of Agriculture and Commerce as likely to be of the greatest service in giving effect to such modifications in our commercial taxation, as the further consideration of this important matter may show to be desirable. In support of this expectation, I will read a portion of the despatch of the Government of India to the Secretary of State, proposing the constitution of the Department of Agriculture and Commerce:—

'We are convinced that if there had been a department, the special business of which was to make itself thoroughly acquainted with all facts of importance regarding the commercial transactions of India, to observe intelligently the operations of external and internal trade, and to watch the effect produced upon the commerce of the country by our fiscal system, our legislation would have been very different from what it has actually been. If such a department had existed, we doubt whether the export duties which we now levy on some of the main staples of agricultural produce, and even on articles of Indian manufacture, could have been imposed or maintained. If such a department had existed, it could never have tolerated the continuance of duties such as those which are still levied on sugar exported from the North-West Provinces across the Inland Customs line. Those duties are transit duties of the worst description, levied on one of the most important articles of agricultural produce in Northern India.'

"After such an expression of opinion on the part of the Government of India, I confidently hope that the very important questions to which I have called the attention of the Council will receive the attention they deserve, and in a spirit conformable to the suggestions I have ventured to make."

His Honour the LIEUTENANT GOVERNOR said, he must express some surprise at the commencement of Colonel Strachey's address, as he commenced by reproaching him for having in a small and humble way adopted the

course which he himself had taken on this occasion. The only difference in respect to the course taken by His Honour and Colonel Strachey had been, not only in respect of the greater humility and mildness of His Honour's remarks, but in this, that he had tried to stick to his last. If this were the proper time, His Honour might have taken some notice of the observations that had been made with regard to the position of Members of this Council who were not also Members of the Executive Government of India; but, as far as this Bill was concerned, warned by the previous lecture he had received, he would hold his tongue.

Colonel the Hon'ble R. Strachey said he had not made the slightest allusion to His Honour the Lieutenant Governor, and therefore really did not know to what His Honour referred.

The Hon'ble Mr. Bullen Smith said it was not his intention to have troubled the Council with any remarks on the present Bill, as, in face of the financial position which they had been more or less discussing for the last three weeks, he felt that any request for a remission of duties would hardly have met with favourable consideration. As a merchant of British India, however, he could not but express his thanks to the hon'ble Member, Colonel Strachey, for the practical and, in the main, he believed, thoroughly sound views on this subject with which he had favoured the Council in the interesting speech just delivered, on which, however, time did not permit him to dwell. The services of the hon'ble Member to India had, over a long course of years, been neither few nor small, and he ventured to say his speech of this day would be remembered among them ; when we got, as he trusted we soon should, into smoother times, financially speaking, and when we were able to point to a tariff-table free from the blots which had been this day so clearly pointed out, then he trusted it would not be forgotten, and he at least was not likely to forget, that the hon'ble Member, all unconnected though he was with commerce in any special manner, brought the evils of existing duties before this Council more fully and forcibly than he had ever before heard them here submitted. He did not deny that to him, personally, there was source of satisfaction in Colonel Strachey's speech ; for having recently incurred the anger of the hon'ble Member of Government in charge of the finances—anger accompanied by a somewhat ungenerous and certainly an ill-founded retort—because he ventured to hint at disregard of fiscal principles in the matter of the existing rice-duty, it was certainly comforting to find his views so well supported, and to hear Colonel Strachey testifying to this defiance of sound principles in language much more plain than he had ventured to employ. By way of elucidating the little misunderstanding

between the hon'ble Member and his Honour the Lieutenant Governor, he would, in reply to the hon'ble Member's direct reference to him as to what he found his position as an Additional Member of this Council, simply say that he entirely accepted the definition of that position as stated by his hon'ble friend, and that he accepted it as unhesitatingly and fully, as he rejected and repudiated the definition of that position given on Monday last by the hon'ble Member opposite (Mr. Stephen), a definition which his whole experience of this Council led him to feel certain was not concurred in by the head of the Government.

The Hon'ble SIR RICHARD TEMPLE had no idea that this extremely small Bill would have led to any discussion. Of course his honourable friend Colonel Strachey's observations were valuable, and as they emanated from a Member of this Council who was not a Member of the Executive Government, they were pronounced without any reserve. But with the permission of the Council, he (SIR RICHARD TEMPLE) would refrain from entering into the matter, inasmuch as what he might say was clothed with official and executive responsibility. He hesitated to speak on such points, except he was announcing the views and wishes of the Government of India. As regards the general question of customs-duties, a reference to the debates of the Council during this session would show that the general subject of Colonel Strachey's remarks had already been set forth to the Legislative Council and the public by three at least of the Members of the Executive Government, and also by His Lordship the President. He did not say that with the view of disparaging the value of his honourable friend's remarks, but to show that the matter was not one which had been overlooked, or which had escaped attention. Indeed, it was one which had been and was under the special consideration of the Government. It might be hoped that, when the time came for the discussion and passing of practical measures based on principles such as those enunciated by Colonel Strachey, the Council would have the benefit, not only of his speech, but of his vote. But that probably could not be, as the honourable Member was about to quit India. Another honourable Member, Mr. Bullen Smith, connected with great commercial interests, also supported in the strongest manner the views expressed by Colonel Strachey; but he (SIR RICHARD TEMPLE) must remind the Council that this was a question of financial possibility, and that the means of removing the defects pointed out might partly depend on the extension or continuation of other measures of taxation. It was a question entirely of means, and he hoped that, on the next budget-day, honourable Members connected with these important commercial interests would be good enough to bear in mind the principles in our Tariff just enunciated on the present occasion.

As regards the particular customs duties which had been referred to, he must remark that it should not be inferred that the Government of India had been, in past years, at all inattentive to the interests of commerce in this respect, for as a matter of fact there had been, within the last five years, several Commissions appointed for the revision of the Tariff. Those Commissions were composed of gentlemen called together from all parts of the country, assisted by the most eminent mercantile men of the presidency towns. Even in his own time there had been a general revision of the Tariff, and it was to be observed that there had been a constant revision of small duties, just of that class to which reference had been made. Even up to the time of the last budget, this process had been going on, and he would refer the Council to his exposition of two years ago, when he explained that no less than one hundred and thirty articles had been wiped off from the Tariff, and that the duties had been reduced from 10 and 15 per cent. to 7½ and 5 per cent. He did not say that there might not be any other important articles in the Tariff which required revision, but he thought that the Council had a right to hope from the past action of the Government that their action in future would be equally satisfactory.

As regards the remark as to the spirit in which the revisions had been made, it might perhaps be inferred that the Government of India had been actuated by a severe and grasping spirit in the matter of its commercial taxation. But he ventured to affirm that any such inference would be in the highest degree unjust to the Government of India, and that this would be apparent from comparing the Customs Tariff of this country with the Customs Tariff of any other country in the world. To show that he was not singular in this view he would conclude by quoting the remarks of his predecessor, Mr. Massey, who had been for a long time Chairman of the Committees of the House of Commons, and had a very large knowledge and experience of the history of England in regard to its commercial policy. What Mr. Massey said on the last occasion when he made his financial exposition in this Council was—

"Again, it is asked, why not repeal your customs duties? my answer to that is, our customs duties are the lightest of any country in the world."

After one or two remarks, as if anticipating the general objections which had just been raised, he said—

"In the like spirit, the Government will be always prepared to remove or lighten any duty which in any perceptible degree checks the prosperity or interferes with the interests of commerce. But do not sacrifice your customs duties to the idea that you are imitating, when you would be only mimicking, the policy of Sir Robert Peel and Mr. Gladstone. The policy of

these Statesmen was as sound and practical as it was grand and imposing; and the customs duties of India are adjusted on principles strictly in accord with that policy. You may keep what you have got with a safe conscience."

The Motion was put and agreed to.

CONSOLIDATED CUSTOMS ACT AMENDMENT BILL.

The Hon'ble SIR RICHARD TEMPLE also moved that the report of the Select Committee on the Bill for the further amendment of the Consolidated Customs Act be taken into consideration.

The Motion was put and agreed to.

The Hon'ble SIR RICHARD TEMPLE also moved that the following section be inserted in the Bill after section 2:—

"3. All goods found on board any boat in excess of the boat-note or Custom-house pass, whether such goods are intended to be landed or to be shipped on board any vessel, shall be liable to confiscation."

And that the number of the following section be altered accordingly.

He said this amendment had been suggested by the Revenue Authorities as being necessary to prevent the possibility of certain smuggling in reference to salt.

The Motion was put and agreed to.

The Hon'ble SIR RICHARD TEMPLE then moved that the Bill as amended be passed.

The Motion was put and agreed to.

NATIVE MARRIAGE BILL.

The Hon'ble MR. STEPHEN moved that the report of the Select Committee on the Bill to legalize marriages between certain Natives of India not professing the Christian Religion be taken into consideration. He said this was now a Bill for legalizing marriages between members of the Bráhma Samája. Originally, the Bill, as the Council were aware, was of a much more general nature, and was received with considerable disfavour by the Local Governments to which it was referred. They all agreed that, if the Bill was confined to the immediate object for which it was introduced, there was no objection to its being passed, and it was clearly desirable that such an Act should be passed. He had supposed that the matter might be settled to-day; but he had

just received a deputation from a part of the members of the Bráhma Samája,—which it appeared was not altogether unanimous—who said that they had not an opportunity of considering the Bill, although the leading members of the sect had approved of it, and that they wished to do so before the measure which was likely to affect their interests to a considerable extent became law. That appeared to be a perfectly reasonable suggestion, and accordingly, if he now moved that the report of the Select Committee be taken into consideration, the Bill could be published for general information. There was no immediate hurry in regard to the matter, and it could be passed while the Government was at Simla. The Bill provided an extremely simple form of marriage, of which these persons could avail themselves. The essential part of the measure was, that the parties to the marriage must be of the ages of eighteen and fourteen respectively; that they must be unmarried, and, if the woman was under the age of eighteen, she must obtain the consent of her parents or guardians, and if they married again during the existence of the first marriage, they would be liable to the punishment provided by the Penal Code in that behalf.

The Motion was put and agreed to.

INDIAN EVIDENCE BILL.

The Hon'ble Mr. Stephen presented the report of the Select Committee on the Bill to define and amend the Law of Evidence. He said:—

"I feel that I owe an apology to your Lordship and the Council for requesting their attention to a second speech upon a purely legal subject after the one which I delivered a week ago upon the Limitation Act. On this occasion, however, I have to explain the position of a measure perhaps as important as any that has been passed of late years by the Indian legislature, inasmuch as, if it becomes law, it will affect the daily administration of both civil and criminal procedure throughout the whole country. Moreover, the subject-matter to which the Bill refers is one of deep and wide general interest, for a Law of Evidence properly constructed would be nothing less than an application of the practical experience acquired in Courts of law to the problem of inquiring into the truth as to controverted questions of fact, however imperfectly it may have been attained.

"This is the object which has been kept in view in framing the Bill which the Committee append to their report, and which I am now to describe in a general way to your Lordship and the Council.

"I will state, in the first place, the history of the measure down to the present time. So far back as the year 1868, the Indian Law Commissioners drew a Draft Evidence Act, which was sent out to this country, and introduced and referred to a Select Committee by my friend and predecessor Mr. Maine. The Bill was circulated for opinion to the Local Governments, and was pronounced by every legal authority to which it was submitted to be unsuitable to the wants of this country. In this view the Committee concur for reasons which I need not state in detail on the present occasion, as they are fully stated in the report which I present to-day. I may observe in general, however, that the principal reasons were that the Bill was not sufficiently elementary; that it was in several respects incomplete, and that, if it became law, it would not supersede the necessity under which judicial officers in this country are at present placed of acquainting themselves by means of English hand-books with the English law upon this subject. The Commissioners' draft, indeed, would hardly be intelligible to a person who did not enter upon the study of it with a considerable knowledge of the English law. Under these circumstances, a new draft was framed, which we now propose to print and circulate, and on which I hope to receive the opinions of the Local Governments and High Courts in the course of the summer, say, by next September, so that their criticisms may be deliberately weighed, and the measure may be finally disposed of by this time next year.

"The report of the Committee explains very fully the scheme of the Bill, which, of course, is of considerable, though not, I hope, unwieldy, length, and enters fully into the reasons which have led us to adopt its leading provisions. I will not weary the Council by going into all these questions on the present occasion. I will confine myself to saying that I trust that those who will have to criticise the Bill will begin by studying the report, which has been drawn up with great care, and which, as well as the Bill itself, forms a connected and systematic whole. The general object kept in view in framing the Bill has been to produce something from which a student might derive a clear, comprehensive and distinct knowledge of the subject, without unnecessary labour, but not, of course, without that degree of careful and sustained attention which is necessary in order to master any important and intricate matter. It is by this standard that the Committee in general, and I in particular as the member in charge of the Bill, desire that it may be tried.

"With this reference to the Bill and the Report of the Committee, I proceed to discuss the general questions connected with the subject, and to mention a few of the leading features of the measure.

"I suppose that I may assume as generally admitted the necessity which exists for legislation on the subject of evidence in British India. It would be exceedingly difficult to say precisely what, at the present moment, the law upon the subject certainly is. To some extent—it is far from being clear to what extent—and in some parts of the country—though questions might be raised as to the particular parts of the country—the English Law of Evidence appears to be in force in British India. Whatever may be the theory, it both is and will continue to be so in practice; for if the English Law of Evidence has not been introduced into this country, English lawyers and quasi-lawyers have, and they have been directed to decide according to the law of justice, equity, and good conscience. Practically speaking, these attractive words mean little more than an imperfect understanding of imperfect collections of not very recent editions of English text-books. It is difficult to imagine anything much less satisfactory than such a state of the law as this.. A good deal may be said for an elaborate legal system, well understood and strictly administered. A good deal may be said for unaided mother-wit and natural shrewdness; but a half and half system, in which a vast body of half-understood law, totally destitute of arrangement and of uncertain authority, maintains a dead-alive existence, is a state of things which it is by no means easy to praise.

"Legislation thus being necessary, in what direction is legislation to proceed? A gentleman, for whose opinion upon all subjects connected with Indian law and legislation I, in common with most other people, have a profound respect, said to me the other day in discussing this subject: "my Evidence Bill would be a very short one. It would consist of one rule, to this effect—All rules of evidence are hereby abolished." I believe that the opinion thus vigorously expressed is really held by a large number of persons who would not avow it so plainly. There is, in short, in the lay world, including in the expression the majority of Indian civilians, an impression that rules of evidence are technicalities invented by lawyers principally for what Bentham called fee-gathering purposes, and of no real value in the investigation of truth. I cannot admit that this impression is in any degree correct. I believe that rules of evidence are of very great value in all inquiries into matters of fact, and in particular in inquiries for judicial purposes; and that it is practically impossible to investigate difficult subjects without regard to them.

"It is worth while to illustrate this point a little, because the necessity for rules of evidence rests upon it; but strong proof of it is to be found in the fact that in all ages and countries there have been rules of evidence. In rude times and amongst primitive people, the task of arriving at the truth as to matters of

fact was regarded as so hopeless and difficult, that rude arbitrary substitutes for any sort of rational procedure were provided in the shape of ordeals and judicial combats. Where people began to obtain glimpses of the true methods of investigation, they seem to have considered as almost supernatural skill what in our days would fall within the scope of average police officers or attorneys' clerks. The delighted wonder which was displayed by the Jews, according to the apocryphal story of Susannah and the Elders, at what a legal friend of mine used to call 'that very feeble cross-examination of Daniel's about the trees,' is a good instance of this. At a later period, arbitrary rules of evidence began to be formed. Such a fact must be proved by two eye-witnesses; such another by four; such another by seven. To say nothing of European systems, in which such rules were in force, the Hedáya is full of them. These rules were never introduced in their full force into England, but the system which was adopted, or rather which grew up by degrees, was of a very mixed and exceedingly singular character. Part of it consisted of rules declaring large classes of witnesses to be incompetent. Part was intimately connected with the English system of special pleading, which was so contrived as to define with extreme precision the facts upon which the parties differed, or were, as the phrase goes, at issue. Part were the result of the practical experience of the Courts, and these were by far the most valuable portion, in my opinion, of the English Law of Evidence. Most of the other rules have indeed been cut away by legislation, and the rules which still remain may fairly be taken to be the nett result of English judicial experience in modern times. In the most general terms, these rules are—

1, that evidence must be confined to the issue;
2, that hearsay is no evidence;
3, that the best evidence must be given;
4, rules as to confessions and admissions;
5, rules as to documentary evidence.

"I have two general remarks to make upon them.

The first is that they are sound in substance and eminently useful in practice, and that, when properly understood, they are calculated to afford invaluable assistance to all who have to take part in the administration of justice.

"The second is that I believe that no body of rules upon any important subject were ever expressed so loosely, in such an intricate manner, or at such intolerable length.

"It is necessary to prove the first of these propositions, in order to justify the recommendation of the Committee that the substance of the rules in question should be introduced in the form of express law into this country. It is necessary to prove the second proposition, in order to justify the attempt made in the Bill to reduce the rules to order and system.

"First, then, as to the proposition that the rules in question are substantially sound, and do far more good than harm, even in their present confused condition. The proof of this is, I think, to be found in a comparison between the proceedings of English Courts of Justice and those of countries which have no such rules, and between the proceedings of English Courts in which these rules are, and those in which they are not, understood and acted upon. As a preliminary remark, I think I ought to observe that the knowledge of these rules possessed by English lawyers is derived far more from the daily practice in the Courts than from theoretical study. Many English lawyers know by habit, almost instinctively, whether this or that (to use the common phrase) is or is not evidence, although they have hardly given the theory of the matter a thought. Practice, therefore, and not theory, affords the true test of the value of these rules. In fact, the clumsy, intricate, ambiguous, and in many instances absurd, theory by which the rules of evidence are connected together came after the eminently sagacious practice which they were intended to justify and explain. What is the practical effect of these rules? I may perhaps be permitted to answer this by referring to a book which I published in 1863 on the criminal laws of England, and which contains, amongst other things, an analysis of several celebrated trials, English and French. One object of that analysis was to contrast the effect of the presence and absence of rules of evidence; and I think that any one who would take the trouble to compare those trials together carefully would agree with me in the conclusion that the practical effect of the English rules of evidence in those cases was to shorten the proceedings enormously, and at the same time to consolidate and strengthen them, keeping out nothing that a reasonable person would have wished to have before him as materials for his judgment. The French system, on the other hand, which dispenses with all rules of evidence, got, at least in those cases, no other result from the want of them than floods of irrelevant gossip and collateral questions enough to confuse and bewilder the strongest head. Again, compare the proceedings of an ordinary Court of criminal justice with the proceedings of a court-martial, in which the rules of evidence are far less strictly enforced and less clearly understood. An ordinary criminal Court never gets very far from the point, but a court-martial continually wanders into questions far remote from those which it was assembled

to try. Nothing, for instance, is more common than to see the prosecutor change places, as it were, with the prisoner, or to find collateral issues pursued till the Court finds itself engaged in determining, not whether A was guilty of a military offence, but whether Z told a falsehood on some perfectly irrelevant subject. In a case which I well recollect, B testified against A. B being cross-examined to his credit stated a fact not otherwise relevant to the inquiry. Z denied the fact which B affirmed, and made further statements which were contradicted by intermediate letters of the alphabet. No Judge can possibly be expected, by the mere light of nature, to know how to set limits to the inquiries in which he is engaged; yet if he does not, an incalculable waste of time and energy, and a great weakening of the authority of his Court, is sure to follow. Active and zealous advocates, who have no rules of evidence to restrain their zeal, would have it in their power to pervert the administration of justice to the basest purposes, and to inflict immense injury on every class connected with it, directly or remotely: that might, and often would, in such hands be made the excuse for tearing open old quarrels and reviving questions laid at rest, and giving fresh animus to scandals long since exploded; and the main question would frequently be lost sight of in a cloud of irritating and useless collateral issues. I may be excused for referring to my own experience at the Bar in illustration of this. Appeals against orders of affiliation used invariably to produce an amount of perjury and counter-perjury which I should think it would be difficult to exceed in any country. In certain parts of the country, it was a point of honour for the friends of the putative father and of the mother, respectively, to 'go to session to swear for him, or her,' as as they used to say. No one who did not take part in such cases could imagine the strange ramifications of falsehood and contradiction into which a hotly-contested case of this kind would spread, or the number of imputations thrown on the honesty and chastity of the different witnesses, male and female. If it had not been for the rules of evidence, the reputations of half the population of the village would have been torn in pieces. The rules of evidence kept matters to a point, and so minimized the evil; but the parties, the witnesses, and the attornies, all appeared to me to be, one more anxious than another, to fight the matter out till the very last rag of character had been stripped off the back of every man, woman, and child, whose name was in any way brought into the discussion. The French Courts display this evil in an aggravated form. In the Work to which I have already referred will be found an account of the trial of a monk named Leotade for murder. If disposed of under the English rules of evidence, it could hardly have taken more than a day or two at the most. In the French Court, it lasted for, I think,

about three weeks, and branched out into all sorts of subjects. One witness, in particular, was discovered to have seduced a girl seven years before, and letters from her to him were read to throw light on his character. He naturally wished to give his own account of the transactions, but was stopped on the ground that a line must be drawn somewhere, and that the Court chose to draw it between the point at which an irrelevant slur had been thrown on his character and the point at which, had he been permitted to do so, he might have given an equally irrelevant explanation.

"It is not, however, merely for the purpose of confining judicial proceedings within reasonable limits that rules of evidence are useful. They are also of pre-eminent importance for the purpose of protecting and guiding the judge in the discharge of his duty. There is a sense in which it may be said with perfect truth that even legislative power is unequal to the task of abolishing rules of evidence. No doubt, it is competent to the legislature to provide that no rules of evidence shall have the force of law; but unless they expressly forbid all Courts and judges to act upon any rules at all, or to listen to any arguments as to the manner in which they shall exercise the discretion with which they are invested (propositions too absurd to state or to discuss), the judges infallibly will hear, and will be guided by, arguments upon the subject, and these arguments will be drawn from the practice of English Courts. Moreover, the Courts of Appeal will exercise their own discretion in the matter, and thus, by degrees, the system would grow up again in the most cumbrous, chaotic and inconvenient of all conceivable shapes. The plain truth is, that there is only one possible way of getting rid of the law of evidence, and that is by getting rid of the administration of justice by lawyers and returning to the system of mere personal discretion.

"It may be that some persons would like this policy, but I suppose it is one which I need not discuss.

"So far, I have considered the rules of evidence merely as they conduce to the important practical objects of keeping proceedings to the point, and of protecting and supporting the judges. I must now say a few words on their value as furnishing the judge with solid tests of truth. I fully admit that their value in this respect is often exaggerated and misconceived; but I think that, when the matter is fairly stated, it will be found that they have a real, though it may be described as a negative, value for this purpose. There are two great problems on which the rules of evidence throw no light at all, and on which they are not intended to throw any light; and it must be admitted that those problems are by far the most important of any which a judge has to solve.

No rule of evidence that ever was framed will assist a judge in the very smallest degree in determining the master question of the whole subject—whether, and how far, he ought to believe what the witnesses say? Again, rules of evidence are not, and do not, profess to be rules of logic. They throw no light at all on a further question of equal importance to the one just stated. What inference ought the judge to draw from the facts in which, after considering the statements made to him, he believes? In every judicial proceeding whatever, these two questions—Is this true, and, if it is true, what then?—ought to be constantly present to the mind of the judge; and it must be admitted, both that the rules of evidence do not throw the smallest portion of light upon them and that persons who are absolutely ignorant of those rules may give a much better answer to each of these questions than men to whom every rule of evidence is perfectly familiar. I think that a more or less distinct perception of this, coupled with impatience of the exaggerated pretensions which have sometimes been made on behalf of the rules of evidence, are the principal reasons for the distrust and dislike with which they are at times regarded. This dislike, I think merely a particular application of the vulgar error which in so many instances leads people to deprecate art in comparison with nature; as if there were an opposition between the two, and as if art in all cases did not presuppose and depend upon nature. The best shoes in the world will not make a man walk, nor will the best glasses make him see; and in just the same way, the best rules of evidence will not supply the place of natural sagacity or of a taste for and training in logic; but it no more follows that rules of evidence are useless as guides to truth, than that shoes or glasses are useless as assistances to the feet and to the eyes. The real use of rules of evidence in ascertaining the truth consists in the fact that they supply negative tests, warranted by very long and varied experience, as to two great points, the relevancy of facts to the question to be decided by the Court and the sort of evidence by which particular facts ought to be proved. They may in the broadest and most popular form be stated thus:—

"If you want to arrive at the truth as to any matter of fact of serious importance, observe the following maxims:—

"First, if your belief in the principal fact which you wish to ascertain is to be, after all, an inference from other facts, let those facts, at all events, be closely connected with the principal fact in some one of certain specific modes. Secondly, never believe in any fact whatever, whether it is the fact which you principally wish to determine, or whether it is a fact from which you propose to infer the existence of the principal fact, until you have before

you the best evidence that is to be had; that is to say, if the fact is a thing done, have before you some one who saw it done with his own eyes: if it was a thing said, have before you some one who heard it said with his own ears: if it was a written paper, have the paper before you and read it for yourself. This exception—qualifications and explanations apart—is the true essence of the rules of evidence, and I think that no one will deny, either that these rules are in themselves eminently wise, or that they are by no means so obvious and self-evident that the mere unassisted natural sagacity of judicial officers of every grade can be trusted to grasp their full meaning and to apply them to the practical questions which arise in the administration of justice, with no assistance from any express law. I do not wish to exaggerate, but I must add, that I attach considerable moral and speculative value to these rules. If they are firmly grasped by Courts of Justice, and rigidly insisted upon in all practical matters which come before the Courts, they will gradually work their way amongst the people at large, and furnish them with tests by which to distinguish between credulity and rational belief upon a great variety of matters which will be of vast importance. I ought to add that the good which they are calculated to effect can be obtained only by erecting them into laws and rigorously enforcing them. When this is done, I feel confident that experience will be continually adding to the proof of their value.

"So far, I have tried to prove the proposition that the English rules of evidence are of real solid value, and that they are not a mere collection of arbitrary subtleties which shackle, instead of guiding, natural sagacity. I pass now to the next proposition, which is, that these rules are expressed in a form so confused, intricate and lengthy, that it is hardly possible for any one to learn their true meaning otherwise than by practice, an inconvenience which may be altogether avoided by a careful and systematic distribution. For the proof of this proposition, if indeed it is disputed, I can only refer in general to the English text-books on the subject. They form a mass of confusion which no one can understand until, by the aid of long practice, he learns the intention of the different rules, of which they heap together innumerable and often incoherent illustrations. I am far from wishing to impute this as a fault to the industrious, and in many cases distinguished, authors of these compilations. They, like all other hand-books, are intended for immediate practical purposes, and are mere collections of enormous masses of isolated rulings, generally relating to some very minute point. It was necessary, therefore, that they should be arranged, rather with reference to vague catch-words with which the ears of lawyers are familiar, than with reference to theoretical principles which it has never been worth any lawyer's while to investigate.

"The condition of the law of evidence, as well as the condition of many other branches of the law of England, affords continual illustrations of the extraordinary intricacy and difficulty which arises from the combination of the very greatest practical sagacity with an absence of sound theory, or, what is still worse, with the presence of unsound theory. No one who has not seen it could possibly imagine how obscure the meaning of a clever man may become when he is forced to squeeze it into the terms of a theory which does not fit it and is not true. I will give one or two illustrations of my meaning. The expression 'hearsay is no evidence' early obtained considerable currency in the English Courts. In a general way, its meaning is clear enough, and, what is more, is true; but, when considered as the scientific expression of a general truth, from which rules can be deduced in particular cases, it is inaccurate, faulty, and obscure to the last degree. The objections to it are, that both 'Hearsay' and 'Evidence' are words of the most uncertain kind, each of which may mean several different things. For instance, hearsay may mean what you have heard a man say, and this is its most obvious meaning; but it is difficult to imagine a grosser absurdity than the assertion that no one is ever to prove, in a judicial proceeding, any thing said by any other person. 'Hearsay,' again, may be taken to mean that which a person did not perceive with his own organs of perception; but this is not the natural sense of the word, and it is almost impossible in practice to divest a word of its natural meaning.

"The word 'evidence' is also exceedingly ambiguous. It may mean that which a witness says in Court. It may mean the facts to which he testifies, regarded as a groundwork for further inference. Notwithstanding this, the phrase 'hearsay is no evidence,' being emphatic and easy to recollect, stuck in the ears and in the minds of lawyers, and has been taken by many text-writers as the principle on which their statement of the most important branch of the law should be arranged. They accordingly took to describing as hearsay every fact of which evidence was by law excluded; in short, they turned 'hearsay is no evidence' into 'that which is not evidence is hearsay.' They did not, however, do this expressly; they did it by describing as exceptions to the rule excluding hearsay all cases in which evidence was admitted of anything which would have been excluded but for such exceptions. This is so intricate a statement that I can hardly expect the Council to follow me, but I will give an illustration of what I mean. The question is, whether a piece of land belongs to A or B. A says that it belongs to him, because his father C bought it from D, who bought it from E, and he produces the deeds by which E conveyed the land to D and D conveyed it to C. Now, as D and E are not parties to the suit between A and

B, and as A cannot of his own knowledge know anything of the transaction between them, English text-writers call the deed between D and E 'hearsay;' and, according to Mr. Pitt Taylor, the rule which permits such deeds to be given in evidence is the third exception to the rule which excludes hearsay. One of the Judges, if I am not mistaken, called such evidence 'written hearsay,' and so indifferent are English lawyers in general to the abuse of language for the sake of momentary convenience that it probably never struck him that this was a contradiction in terms. I think, however, that it is hard to expect people to understand, bear in mind, and follow out in all its ramifications a system which employs language in such a peculiar manner as to call ancient deeds 'written hearsay.' To talk of hearing a document is like talking of seeing a sound.

"I now turn to the ambiguity of the word 'evidence,' to which I have already referred. As I have just said, 'evidence' sometimes means a fact which suggests an inference. For instance, it is common to say,—'Recent possession of stolen goods is evidence of theft;' that is, the fact of such possession suggests the inference of theft. At other times, and I think more frequently, 'evidence' means what a witness actually says in Court, or that which he produces. For instance, we say the evidence which he gave was true. I might occupy, I will not say the attention, but the time, of your Lordship and the Council for hours if I were to attempt to describe the amount of confusion and obscurity which the neglect of this simple and obvious distinction has thrown over the whole subject. I will content myself with observing that it produces the effect of giving a double meaning to every expression into which the word 'evidence' is introduced. 'Circumstantial evidence,' 'hearsay evidence,' 'direct evidence,' 'primary evidence,' 'best evidence,' have each two sets of meanings, and the result is, that it is almost impossible to arrive at a clear and comprehensive knowledge of the whole subject, or see how its various parts are related to each other, without an amount of study, thought, and practical acquaintance with the actual working of the rules of evidence which few people are in a position to bestow upon the subject.

"I may appear to be detaining the Council unduly upon merely verbal questions, but I think that it is a common fault to under-rate the importance of accurate language, particularly in regard to the fundamental terms of any particular branch of knowledge. In regard to law, I have not the least doubt that a very large proportion of the intricacy and difficulty which attach to it is due to the fact that proper pains have never been bestowed on the definition of its fundamental terms. What could be made of Euclid if we were not

quite sure of our meaning when we spoke of a point, a line, a circle, parallels, and perpendiculars? such a defect would render geometry impossible, and the defect which makes large parts of the law almost unintelligible, and beyond all measure cumbrous and unwieldy, is precisely analogous to it in principle. I believe that, if its fundamental terms were defined as clearly as the term 'law' was defined by the late Mr. Austin, the study of law would become comparatively easy, and in many cases attractive for its own sake; that its bulk might be diminished to a degree of which people in general have hardly any conception; that the expense of its administration might be greatly diminished, and that comparative certainty might do away with a very large amount of needless and harassing litigation.

"I shall now proceed to describe, shortly, the principles on which the Draft Bill of the Committee has been framed. In the first place, we thought it necessary to fix the sense in which the fundamental terms of the subject should be understood, and for that purpose we define 'fact,' 'evidence,' 'proof,' 'proved,' and some others as to which I will content myself with a reference to the report. It seemed to us that the remainder of the subject would fall under the following general heads:—

1.—The relevancy of fact to the issues to be proved.
2.—The proof of facts, according to their virtue, by oral, documentary, or material evidence.
3.—The production of evidence in Court.
4.—The duties of the Court, and the effect of mistaken admission or rejection of evidence.

"These heads would, we think, be found to embrace, and to arrange in their natural order, all the subjects treated of by English text-writers and judges under the general head of the Law of Evidence. I will say a few words on their relation to each other, and on each of them in turn.

"The main feature of the Bill consists in the distinction drawn by it between the relevancy of facts and the mode of proving relevant facts. The neglect of this distinction by English text-writers, no doubt, arises from the ambiguity of the word 'evidence,' to which I have already referred, and is the main cause of the extreme difficulty of understanding the English law of evidence systematically. I will shortly illustrate my meaning. A says, 'Z committed murder.' First of all, this is a fact—something which could be directly perceived by the sense of hearing and distinctly remembered afterwards. Now, whether this fact is or is not relevant in a particular case depends

upon a variety of circumstances. If the question is, whether A was guilty of defaming Z by accusing him of murder; or whether Z had a motive for assaulting A, because A said that he had committed murder; or if Z is accused of murder, and the object is to show that, when A charged him with it, he behaved as if he were guilty, and in many other instances which might be put, the fact that A spoke those words is clearly relevant. But if the question is, whether Z actually did commit murder, the fact that A thought so or said so, generally speaking, is not relevant. Supposing, however, that the fact is relevant on some one of the grounds just mentioned, or on any other ground, whatever be the ground on which the words are relevant to the matter under inquiry, it is obvious that the words themselves ought to be satisfactorily proved, and the rule of English law—and we think it is a wise rule—is that they must be proved by the assertion of some witness that he heard them said with his own ears. English text-writers throw together these two classes of rules under the head of Hearsay. They lay down the general rule that hearsay is no evidence, meaning by it that certain classes of facts called hearsay are to be treated as irrelevant to the determination of particular questions, and it is necessary to look through a long list of exceptions to that rule in order to see whether, in a particular case, A's statement may or may not be proved. If you find that it can be proved, the question is, how can it be proved? and you propose to prove it by a witness who says that B told him that he heard A say so. Again, you are told, 'hearsay is no evidence;' but this time the expression means, not that the fact is irrelevant, but that the testimony by which it is proposed to prove the fact is improper. One extreme inconvenience of this is, that the most important part of the English law of evidence is thrown into the most intricate and inconvenient of all possible forms, that of a very wide negative, of most uncertain meaning, qualified by a long string of exceedingly intricate exceptions.

"No one who has not gone through the process of learning the law by mere rule-of-thumb practice can imagine the degree of needless obscurity and difficulty upon this point, of the existence of which he becomes gradually conscious. It would be perfectly fair to say to almost any English text-writer, 'you tell me, at enormous length, what is not evidence; but you nowhere tell me what is evidence, except, indeed, in large compilations, which point out what has to be proved upon particular issues, and which it is as impossible to read or remember, as it is to read or remember any other mere works of reference.'

"I hope that we have been able to avoid this, and that the second chapter of the Bill will be found to state specifically, and in a positive form, what sorts of

facts are relevant, as being sufficiently connected with the facts in issue to afford grounds for an inference as to their existence or non-existence. I will not weary the Council by mentioning those rules, and I will content myself by referring to the Bill and to the report. But I may shortly illustrate them by reference to a passage from a modern historian, which will relieve the dulness of a very technical speech. The passage to which I refer is a short summary, by Mr. Froude, of the grounds on which he believes that Mary Queen of Scots murdered her husband.

"As Mr. Froude is not a lawyer, he certainly wrote what I am about to read without reference to rules of evidence. I think the fact that he did, in fact, unconsciously observe them illustrates very strongly the truth of my assertion that they are no more than the result of experience and practical sagacity thrown into a categorical shape. I need hardly say that I use the passage merely as an illustration, and without any notion of adopting Mr. Froude's opinions, or asserting the truth of his facts. I am concerned merely with their relevance.

"'She (Mary) was known to have been weary of her husband, and anxious to get rid of him.'

"(By our draft, facts which show motive are relevant).

"'The difficulty and the means of disposing of him had been discussed in her presence, and she had herself suggested to Sir James Balfour to kill him.'

"(Facts which show preparation for a fact in issue are relevant).

"'She brought him to the house where he was destroyed; she was with him two hours before his death;'

"(Facts so connected with the facts in issue as to form part of the same transaction are relevant).

"'and afterwards threw every difficulty in the way of any examination into the circumstances of his end.'

"(Subsequent conduct influenced by any fact in issue is relevant).

"'The Earl of Bothwell was publicly accused of the murder.'

"(Facts necessary to be known in order to introduce relevant facts are relevant).

"'She kept him close at her side; she would not allow him to be arrested; she went openly to Seton with him before her widowhood was a fortnight old. When at last, unwillingly, she consented to his trial, Edinburgh was occupied by his retainers. He presented himself at the Tolbooth surrounded by the

Royal Guard, and the charge fell to the ground, because the Crown did not prosecute and the Earl of Lennox had been prevented from appearing.'

" (Subsequent conduct influenced by any fact in issue is relevant).

" A few weeks later, she married Bothwell, though he had a wife already, and when her subjects rose in arms against her and took her prisoner, she refused to allow herself to be divorced from him.

" (Subsequent conduct. Motive).

" A large part of the evidence consisted of certain letters which the Queen was said to have written. Mr. Froude, in passages which I need not read, alleges facts which go to show that she tried to prevent the production, and to secure the destruction, of these letters. An illustration as to subsequent conduct meets the case of a person who destroys or conceals evidence.

" Finally, Mr. Froude observes : 'In her own correspondence, though she denies the crime, there is nowhere the clear ring of innocence which makes its weight felt even when the evidence is weak which supports the words.'

" The letters would be evidence under the section relating to admissions, and Mr. Froude's remark is in nature of a criticism on them by a prosecuting Counsel.

" In English text-books, so far as my experience goes, these rules and others of the same sort are nowhere presented in a compact substantive form. They come in, for the most part, as exceptions to the rule that evidence must be confined to the points in issue. In fact, they can be learned only by the practices of the Courts, though they are as natural and lax as any rules need be if they are properly stated.

" From the rules which state what facts may be proved, we pass to those which prescribe the manner in which a relevant fact must be proved. Passing over technical matters—such as the law relating to judicial notice, questions relating to public documents, and the like—these rules may be said to be three in number, though, of course, numerous introductory rules are required to adopt for practice. They are these—

" 1. If a fact is proved by oral evidence, it must be direct; that is to say, things seen must be deposed to by some one who says he saw them with his own eyes. Things heard by some one who says he heard them with his own ears.

"2. Original documents must be produced or accounted for before any other evidence can be given of their contents.

"3. When a contract has been reduced to writing, it must not be varied by oral evidence.

"These rules, as I have said, are subject to certain exceptions, and require certain practical adjustments; but I do not think that any one who has had practical experience of the working of courts of justice will deny their substantial soundness, or indeed the absolute practical necessity for enforcing them.

"Passing over certain matters which are explained at length in the Bill and report, I come to two matters to which the Committee attach the greatest importance as having peculiar reference to the administration of justice in India. The first of these rules refers to the part taken by the judge in the examination of witnesses; the second to the effect of the improper admission or rejection of evidence upon the proceedings in case of appeal.

'That part of the law of evidence which relates to the manner in which witnesses are to be examined assumes the existence of a well-educated Bar, co-operating with the judge and relieving him practically of every other duty than that of deciding questions which may arise between them. I need hardly say that this state of things does not exist in India, and that it would be a great mistake to legislate as if it did. In a great number of cases—probably the vast numerical majority—the judge has to conduct the whole trial himself. In all cases he has to represent the interests of the public much more distinctly than he does in England. In many cases he has to get at the truth, or as near to it as he can, by the aid of collateral inquiries, which may incidentally tend to something relevant; and it is most unlikely that he should ever wish to push an inquiry needlessly, or to go into matters not really connected with it. We have accordingly thought it right to arm judges with a general power to ask any questions, upon any facts, of any witnesses, at any stage of the proceedings, irrespectively of the rules of evidence binding on the parties and their agents, and we have inserted in the Bill a distinct declaration that it is the duty of the judge, especially in criminal cases, not merely to listen to the evidence put before him, but to inquire to the utmost into the truth of the matter. We do not think that the English theories, that the public have no interest in arriving at the truth, and that even criminal proceedings ought to be regarded mainly in the light of private questions between the prosecutor and the prisoner, are at all suited to India, if indeed they are the result of anything better than carelessness and apathy in England.

"With respect to the question of appeals, we have drawn a series of provisions, the object of which is to prevent mere mistakes in procedure from destroying the value of work properly done, as far as it goes. We have gone through the various cases in which, as appears to us, the question of the improper admission or rejection or omission of evidence can arise; and have provided that, whenever any Appellate Court discovers the occurrence of any mistake, it shall not reverse the decision of the inferior Court, but shall either strike out what is redundant, or supply what is defective, as the case may be, and give judgment accordingly.

"I have addressed your Lordship and the Council at great length, but not, I think, at greater length than the importance of the matter requires. I have only to add that I propose to proceed with the Bill when the Government returns to Calcutta, and that I hope before that time to receive the criticisms of the Local Governments upon the measure."

The Hon'ble MR. STRACHEY said that, although it was not customary, he should like to say a few words on this occasion. The Hon'ble Mr. Stephen, in introducing a measure not long ago for which he was virtually responsible, said that he might be allowed to say that it was an admirable measure, because he was not the author. So MR. STRACHEY might say, for all the non-legal members of the Committee on this Bill who signed the Report, that this was an admirable Report, and the Bill was an admirable Bill, because we had nothing to do with their preparation. The general feeling of the Committee—he could at least answer for himself—had been that, being allowed to put their signatures to this Report was something for which they had to be thankful. As one who made no pretensions whatever to being learned in the law, he should not attempt, under any circumstances, to criticise the details of the Bill; but he thought the very fact of being unlearned in the law made one rather more than less able to appreciate and testify to the value of this measure. Like most members of the service to which he belonged, the greater part of his Indian life had been passed in administering justice in Courts of one sort or another. He therefore felt that he could speak with some experience as to the probable operation of such a measure as this; and it was simply and solely from this practical point of view that he could venture in any way to criticise Mr. Stephen's Bill. He believed the truth was that, although a learned Judge might get on pretty well without a complete code of evidence, the unlearned Judge felt the want of it at every step. No doubt, if the law of evidence, as applied to the administration of justice, consisted in the observance of certain forms—a doctrine which was most sedulously prac-

tised by Sadr Courts that he could name—it would be worse than having none. But he felt convinced that what the Hon'ble Mr. Stephen had said was most true; that a rational form of the law of evidence was the greatest possible help that we could afford to a Judge unlearned in the technical language of the law. When MR. STRACHEY looked at this Bill, and thought of and remembered his own work in former times, when he began his service as an Assistant Magistrate and Collector, till he turned a sort of sham High Court Judge, he felt how thankful he and others would have been for a Bill of this kind. For anything he knew to the contrary, Mr. Stephen's Bill would be picked to pieces, as he had picked to pieces the work of the Law Commissioners. But speaking generally, without entering into details, he believed that this Bill would commend itself practically to men accustomed to administer justice in Indian Courts, as a measure thoroughly adapted to the circumstances of the country.

In a recent speech on the Income Tax Bill, Mr. Stephen referred to the great codes of law which of late years had been introduced into India, and in regard to some of which we need not fear comparison with any country in the world, which had been given to us by the labour and intellect, not of our Indian officers, who had had no training and learning for such studies, but by certain eminent men, selected in England for the special purpose. This Bill, MR. STRACHEY thought, was another of those important measures, and was the work of one of those eminent men; and when Mr. Stephen had passed this Bill, he would have performed for the administration of justice a work which would be the most valuable service that could possibly have been rendered to this country.

The Hon'ble MR. ROBINSON said that, after the very full exposition of the Bill before the Council, which had been given by learned and hon'ble members, it was not possible that any useful remarks should be made by one whose knowledge of this intricate part of the science of the law was as limited as his.

He merely endorsed all that the Hon'ble Mr. Strachey had said of the probable benefit which would be conferred by the Bill on the administrators of the law.

But he would venture to state here, in respect to a matter with which he was more familiar, that as the Head of the Police for one of the Presidencies for many years, he had long been fully conscious of the very great want that existed of a set of simple authoritative and instructive rules for conducting, before

Courts of Justice, criminal cases such as fell to the lot of public officers in the course of their daily work.

To his mind the Bill before the Council promised to provide very effectually for this want, and he thought it would be very heartily welcomed by many of the working men in the country, as likely to become a simple and instructive, as well as a very useful, manual for their own instruction and guidance, and for the assistance of their subordinates.

The Hon'ble Mr. Inglis wished to say, briefly, that he thought the Evidence Bill introduced by the Hon'ble Mr. Stephen would be of the very greatest benefit to the country.

He did not intend to go into the question as to whether any of its provisions were opposed to the technical rules of evidence observed in the Courts in England. He did not feel competent to give an opinion about this. The principle of the proposed Bill, as he understood it, was that the object of a trial was to get at the truth in the best and shortest way possible; not to give an opportunity to contending Counsel to display their ingenuity in twisting the rules of evidence for the benefit of their respective clients. If, in following out this sound principle, it had been found necessary to put aside any of the technical rules of evidence observed in the English Courts, it was a step in the right direction.

In the majority of the Mofussil Courts there was nothing deserving of the name of a Bar, and if a Judge were to rely on the Counsel employed by the parties to bring out all the points at issue in a case, or for the examination of the witnesses, he would be guilty of a very serious neglect of his duty. He had in the majority of cases to act as Counsel for both parties, as well as to be Judge between them. He thought that the authoritative acknowledgment of this fact, by the provisions in the proposed Bill, which empowered a Judge to ask any questions upon any facts relevant or irrelevant, at any period of the trial, would be most useful.

He thought, also, that the Bill would be of much assistance to the Subordinate Judges of the Mofussil Courts, when one of the parties to a suit had brought up a clever Barrister to conduct his case, who, relying on the slight knowledge the Judge might have been able to acquire of the English law of evidence, was inclined to take undue advantage of this by raising questions as to the admissibility of the evidence produced by the other side. This Act would

enable the Judge to decide all questions of the kind at once, by a reference to a short Act at his elbow, instead of having, as now, to wade through volumes of decisions, many of which might not be in his library.

At the present time, we had no law of evidence for India. Some Judges admitted all kinds of evidence; others tried to regulate their proceedings by so much of the English law as they had been able to pick up by a study of some of the many voluminous treatises published on the subject. The result was general diversity of practice, and the want of some fixed principles which should guide all the Courts had long been felt.

He believed that this Bill, if it become law, would supply this want; it gave a complete, authoritative and concise manual of the law of evidence, easily understood, and capable of being applied to all questions which might arise in the course of a trial, even by a man sitting for the first time as a Judge.

His Honour the LIEUTENANT-GOVERNOR said that, at this stage of the proceedings and at this time of day, he would confine himself to testifying to the reality of the evils which had been described by the Hon'ble Members who had preceded him: he would content himself by simply saying that, in this respect, there was no doubt that the present state of things was one of the greatest confusion, and there was clearly a necessity to provide against the base, bastard caricature of English law which the lawyers were inclined to impose on the Courts in this country. He thought that, if we must choose between a new Code of Evidence and abolishing the lawyers, he should vote for abolishing the lawyers, always excepting, of course, his hon'ble and learned friend. But as that could not be done, it might be necessary to see whether we could not make an intelligible and simple Law of Evidence. Mr. Stephen said that the ancient law of evidence was of the most technical and artificial character. The direction to which all improvement had tended was to cut away those technicalities, to introduce free-trade in evidence and to give only common sense rules for the guidance of the Judges. But still, all men were not sensible, and all Indian Judges were not sensible, and it might therefore be necessary to supply a Code of Evidence. If, then, we must have a Code of Evidence, HIS HONOUR believed that no man was more competent to draw it out than Mr. Stephen; and HIS HONOUR was gratified that at the end of the Bill were inserted one or two sections to the effect that whatever the Judge did should not vitiate the proceedings. In that sense he thought a Code of Evidence would be very valuable. But he would venture also to suggest that, if we could not altogether abolish the lawyers, there should be a section to

the effect that no lawyer should open his mouth with respect to the question of the admissibility or inadmissibility of evidence. Then he thought this Code would be of the very highest importance, and of the greatest use for the guidance of the Judges.

The Hon'ble MR. STEPHEN felt very much gratified at the terms in which Hon'ble Members had been pleased to speak of the merits of this Bill. He could hardly suppose that His Honour was serious in the suggestions he had made at the conclusion of his speech.

BROACH TALUQDÁRS RELIEF BILL.

The Hon'ble MR. CHAPMAN moved that the report of the Select Committee on the Bill to relieve from incumbrances the estates of Taluqdárs in Broach be taken into consideration. He said it would be in the recollection of the Council that the persons in whose behalf it was proposed to pass this Bill were five in number; that they were representatives of Rájput families of great antiquity; that their estates had become much encumbered, and that the Government had promised to advance the amount (some five lákhs of rupees) requisite to discharge their liabilities.

Most of the creditors were in the possession of lands which yielded them a very high rate of interest on the capital advanced, and they were naturally reluctant to give them up and receive payment. He hoped he should not be wounding the susceptibilities of the admirers of our system of civil justice, when he said that the process of taking each creditor into Court and compelling him to receive payment would be so tedious and expensive, that it would practically be impossible to afford the desired relief by this means. Therefore, the Government had decided on introducing this Bill, which was identical with the law in force in Oudh, and substantially the same as that which had been so successfully worked in the adjoining Collectorate of Ahmedábád.

The estates would be vested in a manager appointed by Government, and he would have power to call in and adjudicate on all debts. Since the Bill had been introduced, he had seen two representations against it. One in the shape of a petition from the principal creditors concerned, addressed to this Council; the other, in the form of a letter from Mr. Jeverilal Umiashankar to the Editor of the *Times of India*. The letter from Mr. Jeverilal contained, he thought, all that could possibly be said against the Bill, and was a fair, but hostile, criticism, temperately expressed. The objections amounted to this. The creditors disliked extremely having their claims investigated by a special

officer, and said that they would not be satisfied with anything short of the full amount of them. Now, of course, the very issue to be decided would be as to what was the correct amount. The Government had no kind of fiscal interest in the matter; and there was no reason to suppose that the officer whom they would appoint to specially investigate these complicated accounts, which had been running for many years past, would act otherwise than fairly and impartially.

The Hon'ble MR. ROBINSON had been unable to join in the report of the Select Committee on this Bill, because he thought that it contravened a very important principle of our administration in the old settled provinces. It was likely to introduce a bad precedent and cause much uncertainty and confusion as well as heart-burning amongst disappointed bankrupt proprietors, if similar aid and protection were withheld from them when solicited on equally cogent grounds.

The object of the Bill was to remove from the cognizance of the law courts the private transactions of a number of zamíndárs in provinces which, for several generations, had been subject to the ordinary administration of justice, and to place the interests of their creditors at the disposal of some unusually constituted tribunal with no defined procedure. He observed, too, that most of the creditors were naturally very apprehensive as to the treatment which their interests would receive.

Without entering into the instances which had been dwelt on as showing extortionate dishonesty on the part of creditors, he would only observe that we had only the debtors side of the story before us, and he gathered that the courts had not had the cases before them yet.

The discussion before the Council had caused serious apprehension in his mind. The Hon'ble mover of this Bill was prepared to advocate a general measure whereby Local Governments, even in settled provinces, should be empowered to listen to arguments of so-called policy and benevolence, and interfere in a manner which, he thought, would be subversive of very important interests.

The discussion before this Council which followed showed that the sentiments of the majority of Hon'ble members were now in favour of such interferences with the administration of civil justice, although the Hon'ble Mr. Strachey observed, in the debate on the Oudh Bill, that the consequences of such a general measure might be very mischievous indeed.

It was obvious that the passing of the Oudh Taluqdárs' Act had already operated in bringing forward proposals to relieve other improvident zamíndárs from the consequences of their follies or misfortunes, and he thought this Bill created a very serious and embarrassing precedent in this direction.

He was willing to admit that, in respect to the case of the Oudh Taluqdárs, there were political reasons for the action taken by the Government of India.

The Panjáb, too, was not an old settled province. And if the sale of land there were prohibited, no breach of faith with landholders' creditors virtually occurred.

He could conceive some other estates on the North-West Frontier to which this protection might be temporarily extended without creating the bad precedent.

But as respects the old countries subject to the Governments of Madras, Bombay, Bengal and the North-West Provinces in general, he thought no such action should be allowed.

The other precedent relied on by the Hon'ble mover of this Bill, was the action of the Bombay legislature in the case of the Ahmedábád Taluqdárs; but it afforded no precedent, and the action was quite local.

In that matter, if he understood it aright, the Government had to deal with tenants—who were hereditary, it was true, still tenants—with a life interest only in their estates, against which therefore creditors had but modified claims. The Government of Bombay wished to enlarge this estate into a full proprietary right; but these life tenants had burdened their estates, and it was quite equitable in the Bombay Government to adjust these probably irregular transactions in such a way as not to place the creditors in a better position against the new proprietors than they were when the debts were contracted. They therefore entered into a settlement with them before raising life tenures to full hereditary properties. But such was not the condition of the interest before us. The Ahmedábád case, therefore, afforded us no precedent.

He still thought that the only safe way in dealing with these questions was to relegate these claims to the ordinary courts of justice, where there was every reason to hope that they would be equitably dealt with. Otherwise, other claims on the public purse and for exemptions from civil liability would be urged on the Government and could not fairly be resisted.

His Honour THE LIEUTENANT GOVERNOR was constrained to vote with the Hon'ble Mr. Robinson against this Bill, unless he should now hear reason to change his opinion. He would have voted silently, except that it would not seem consistent for him to do so, having long thought that great political errors had resulted from the facility which existed for the transfer of landed property. Therefore, he should most gladly take part with any measure which should limit the facilities for such transfer. We were often burdened by strong-handed residents on the land, dispossessed men who considered themselves the real owners and were a source of weakness to us. But he was not convinced that the case laid before us was the same as the case he had described. He understood that these Taluqdárs were people of a different class: they were people of a superior class, who, he was inclined to believe, were possessed of but little political power. He gathered from the debates that had taken place, and from what had fallen from the Hon'ble Mr. Chapman, that the only reason which had been assigned for affording this assistance was that the Government of Bombay had promised to get these gentlemen out of their difficulties, and that similar measures had been adopted in one or two cases before If such measures were adopted contrary to the law of the country, you introduced immense insecurity in regard to all landed property. He found that a petition had been presented from certain people who were creditors of these Taluqdárs, and they gave a very different character to the position of the Taluqdárs. They said that they were no members of an ancient family, but merely represented some very modern robbers.

He was not prepared to say that this account was the correct one. But he had heard nothing to induce him to vote in favour of this Bill, except the fact that these persons were members of ancient families. He thought that, if such pleas were introduced in England to assist ancient Dukes and other Noblemen, they would be scouted and would not be listened to; and he did not see why black gentlemen of ancient family were to be considered better than white gentlemen of ancient family, when both were equally improvident and good-for-nothing. Therefore, unless he was told that these gentlemen were of modern practical political influence, that if they were deprived of their estates through the action of our Courts it would be necessary to maintain a regiment of soldiers to keep them in check, he must vote against his Bill.

The HON'BLE MR. ELLIS would not detain the Council to argue upon the merits of the general policy mentioned by the Hon'ble Mr. Robinson, for that question was not now before the Council, and allusions to that policy

were out of place. Nor would MR. ELLIS detain the Council to explain the special reasons why it was considered expedient to afford relief to the Thákurs who were the subject of this Bill; because, although His Honour the Lieutenant Governor, owing to his not having then been a Member of this Council, had had no opportunity of hearing those reasons, other Hon'ble Members had had such opportunity, and had fully discussed them on previous occasions. He could not, however, refrain from a passing comment on one remark that had fallen from His Honour: He (MR. ELLIS) would be very sorry if the only reason held to justify us in affording relief was the fact that, if we did not do so, a regiment of soldiers would be required to keep these Thákurs in order. Such a state of things, if it existed, would rather point to a different course of policy, and he could hardly conceive any argument that would be less likely to have the effect of inducing the Council to accede to a Bill of this kind.

There were one or two points on which MR. ELLIS desired to correct misapprehension in the opinions that had been expressed by the Hon'ble Mr. Robinson. The Hon'ble Member was under an impression that the relief which it was proposed to afford to the persons who were the subject of this Bill, was a consequence of the step that had been taken in relation to the Taluqdárs of Oudh. But the fact was that this measure of relief had been under the consideration of the Government of India before the Oudh Taluqdárs' Bill was determined upon, and sanction had been given to the original proposal of the Government of Bombay in regard to the Thákurs of Broach before the Oudh Bill was under consideration of the Council.

With regard to one other question—the status of the Ahmedábád Taluqdárs—he would remark that many theories had been propounded regarding their legal position before the Bill of 1862 was passed. Some thought that, although these Taluqdárs were ancient proprietors, they had in a great measure lost their proprietary right, and that their status must be judged by the leases under which they held from Government, while others maintained that they were still proprietors. In all the discussions which had taken place, no one ever stated that they were merely "life tenants," as the Hon'ble Mr. Robinson assumed; and it would have astonished even those who held the strongest views against the Taluqdárs' rights to hear them so designated. Though the point was not material in discussing the Bill now before Council, he deemed it right not to allow it to pass unnoticed.

The Motion was put and agreed to.

The Hon'ble MR. CHAPMAN also moved that the Bill as amended be passed.

The Motion was put and agreed to.

STEAMER SURVEY (RANGOON) BILL.

The Hon'ble MR. CHAPMAN moved that the report of the Select Committee on the Bill to provide for the survey of steam vessels in the Port of Rangoon be taken into consideration. He said this Bill was nothing more nor less than the re-enactment of the law which prevailed in Calcutta, and was necessary for the safety of life and property.

The Motion was put and agreed to.

The Hon'ble MR. CHAPMAN also moved that the Bill as amended be passed.

The Motion was put and agreed to.

LOCAL RATES (OUDH) BILL.

The Hon'ble MR. STRACHEY moved that the report of the Select Committee on the Bill to provide for the levy of rates on land in Oudh be taken into consideration. Having already made he did not know how many speeches on this Bill, he did not think he need inflict another speech on the Council. The Council would observe that the Committee had proposed no important change in the Bill, with one exception. It was originally provided in section ten that seventy-five per cent. of the amount of rates assessed on any district should be assigned for expenditure in that district for the purposes of the public improvements detailed in the Bill. The Committee proposed that, instead of seventy-five per cent., the whole amount of the rates levied in any one district should be expended in that district. He was authorized to state that the Chief Commissioner of Oudh entirely approved of this change. MR. STRACHEY thought, also, that the Council would approve of it, and would consider it a great improvement on the original proposal. The principle was recognized, that the rates to be levied should be entirely expended for the benefit of the district on which they were imposed, and the purposes for which they might be expended had been distinctly laid down. The principal persons in the district, it was hoped, would, in such case, be induced to take an active part in the management of the funds, and in determining the works to be constructed; and a further important safeguard would be afforded by the section of the Bill which required the most complete publicity to be given to the accounts showing the manner in which the rates had been expended.

His Honour the Lieutenant Governor had said on a former occasion that he thought it would be deserving of the consideration of the Committee whether it was expedient that tenants with rights of occupancy should be made responsible to pay a share of the rate in the way proposed by the Bill. MR. STRACHEY

would observe that these tenants were few in number in Oudh, and he believed the fact to be, that it was really a matter of no great importance, either to these tenants or to their landlords, whether they were omitted from the Bill or not. The Committee was at first disposed to think that it was best to omit them; but, on further consideration, it was thought not right to do so; and mainly for this reason, that the local authorities were strongly of opinion that these tenants, who held at beneficial rates of rent, and who virtually intercepted a portion of the proprietor's profits of the land, should not be exempted. Considering that this was a matter of principle; that its conclusion was undeniably equitable; that the Chief Commissioner was very decidedly of opinion that it should be acted upon, and, moreover, that he assured us confidently that no difficulty whatever could be experienced in carrying this provision into effect, the Committee adopted finally the opinion that the views of the local authorities, who were the best able to judge of the point, had better be adopted.

His Honour THE LIEUTENANT GOVERNOR was entirely ready to defer to the opinion of the Chief Commissioner of Oudh and the Committee, as to the question of imposing a rate on occupancy-ryots. He had already admitted that, in principle, they were liable. He merely threw out the suggestion as a matter of convenience, as to whether, the amount being so small, it would be worth the trouble of collection; but since it was thought better to retain the provision, he was not prepared to oppose it.

But as regards this Bill and the Bill for the North-Western Provinces, HIS HONOUR had expressed his opinion that it would be very desirable to make this a local, and not a provincial, Bill; and he was gratified to find that that had now been done. And therefore he had no objection to this Bill, more than to suggest that there appeared to be some inconsistency in one portion of it. The proviso in section nine required these local rates to be brought into the accounts of the general provincial fund, and by section ten the amounts of these local rates were to be taken out again from the provincial fund and re-allotted to the several districts. The effect of that, he thought, would be to give the Bill a bad name as a provincial Bill, whereas it was a Bill for local rating, district by district.

The Hon'ble MR. STRACHEY said the point to which His Honour the Lieutenant Governor had referred was very carefully considered, both in regard to this Bill and the similar Bill for the North-Western Provinces, and the sole reason for retaining the ninth section was that, after great consideration, the conclusion was arrived at that it would simplify accounts if the rates were in the first instance credited to the general Fund, and the Local Governments

should make assignments from that Fund. He ought also to mention that, if His Honour would turn to section eleven, he would see that it was not absolutely laid down that in every case the whole of the rates levied in any District should under all circumstances be expended in that District. But if the money assigned was not expended in the year, that portion of the assignment which remained unexpended would, as the Bill stood, lapse to the general Fund, and the Chief Commissioner might, at his discretion, either re-assign it to be expended in the District, or apply it for the benefit of the Province generally.

The Motion was put and agreed to.

The Hon'ble MR. STRACHEY also moved that the Bill as amended be passed.

The Motion was put and agreed to.

RAILWAY BILL.

Colonel the Hon'ble R. STRACHEY introduced the Bill to amend the Railway Act, and moved that it be referred to a Select Committee with instructions to report in two months. When he applied for leave to bring in this Bill he had explained generally the scope of its provisions. He would now observe shortly the main points to which the Bill referred. First, it was intended to extend the general term "railway" to branches and sidings, and to portions of a railway on which locomotives ran before the line was opened. Under the existing law, a railway was defined to be a railway for passengers and for goods, which excluded such portions of railways as had just been referred to. The next sections, from 3 to 7, referred to fencing and cattle-trespass. It had long been understood that it was necessary to make some alteration in this part of a railway, and it was now proposed that the Local Government, with the sanction of the Governor General in Council, would be authorized to make rules for fencing, so that the different characters of railway should be fenced in accordance with the actual requirements of such lines. The rules as to fencing, under the existing law, were extremely stringent, and generally admitted to be very much more than what was necessary as regards the Madras railway and other railways which the Government was constructing, in which the speed of the vehicles would be small. Section 8 authorized the making of subsidiary rules which could not now be made legally, and the local officers should have power to make such rules as should be found expedient. Section 9 was merely formal, for defining the authority for putting the Act into force.

The Motion was put and agreed to.

LOCAL RATES (NORTH-WESTERN PROVINCES) BILL.

The Hon'ble MR. INGLIS presented the report of the Select Committee on the Bill for the levy on land of rates to be applied to local purposes in the North-Western Provinces.

LICENSE (NORTH-WESTERN PROVINCES AND OUDH) BILL.

The Hon'ble MR. INGLIS presented the report of the Select Committee on the Bill for imposing a duty on certain trades and dealings in the North-Western Provinces and Oudh. He said it was not intended to proceed with this Bill. The Lieutenant-Governor of the North-West and the Chief Commissioner of Oudh considered it unnecessary to levy the tax proposed under it.

He had no doubt that Sir William Muir would, at the meeting of this Council which would take place at Allahabad next week, explain fully the arrangements he had decided on making for carrying on efficiently the several departments of the public service made over to him by the Resolution of the 14th December last, without having recourse to this tax.

The Hon'ble MR. STRACHEY wished to say only a few words. This Bill was originally drawn for the North-Western Provinces only. It was afterwards thought expedient to take power to extend it to Oudh, if such a course should hereafter be thought desirable, but as he stated to the Council on a former occasion, there was no present intention of putting the measure in force in Oudh. Consequently, so far as Oudh was concerned, the withdrawal of this Bill would in no way affect the former conclusions of the Government. It was, MR. STRACHEY thought, most satisfactory that the Lieutenant-Governor of the North-Western Provinces should be able to dispense with this Bill, and to satisfy himself that the existing local and provincial sources of revenue, supplemented, as they would be, to a small extent, by his hon'ble friend's other Bill for imposing rates upon land, would enable him to meet the great and growing wants of these extensive provinces. The Bill would in itself be an excellent one, supposing that further taxation of a portion of the trading classes were necessary; but it was most satisfactory that the Lieutenant-Governor should now find that it was not wanted. MR. STRACHEY hoped that this might be taken as an earnest of the desire, both of this Government and of the Local Governments, to practise a reasonable economy, and to avoid the imposition of all needless burdens, whether by imperial or financial taxation. Now that the proposed measures of new taxation for the North-Western Provinces and Oudh were almost complete, we were able to see pretty exactly what the amount of the new taxes would actually be.

His Excellency the Viceroy had given to the Council the other day figures showing the real remission of taxation in the coming year. MR. STRACHEY would repeat some of those figures, and would show what the nett result of the late financial measures of the Government would be in the provinces to which he had been referring. In the North-Western Provinces and Oudh, we had levied, this year, as income-tax £390,000. Next year, we expected to get £112,000. The reduction of income-tax would be £278,000. Against this sum there would be a set-off of about £67,000, the amount imposed by new taxation on the land. The actual total reduction of taxation would therefore be £211,000. This was the real result of the late measures in those provinces over which, since they had no legislature of their own, the Government of India exercised a more immediate control in matters of financial taxation. He confidently predicted that the results in all other provinces would be similar in kind. If anybody chose to say that the Government had done an unwise thing in relieving the people of Northern India of £278,000 income-tax, and imposing, instead of this heavy burden, an additional tax of £67,000 on the land, he was free to do so; the public would think much of his wisdom. That there should have been, at first, many misconceptions in regard to the policy declared by the Government in the Resolution of December last, was no matter for surprise. But MR STRACHEY had sufficient confidence in the good sense and justice of his countrymen to believe that, when they learned the truth, we should hear no more of the assertions which had been so wildly made that the object and result of the measures of the Government were, not increased economy, but increased expenditure; and that we were imposing upon the people burdens of provincial taxation heavier than the burdens of imperial taxation from which they had been relieved.

His Honour THE LIEUTENANT GOVERNOR said that, as the Hon'ble Mr. Strachey had made a general statement, he would ask leave to take exception to one point in that statement, that in estimating the burden thrown upon the Government in the North-Western Provinces and the other Local Governments, Mr. Strachey had contented himself to take the burden thrown on the Local Governments for this year. But in estimating the change which had taken place in reference to the difficulties and responsibilities of the Local Governments, the Hon'ble Member had thrown out of sight what had been prominently put forward more than once, namely, the increased burden which must result from the expansiveness of certain Departments made over to the Local Governments; for if it was desirable that the Local Governments should continue in the path of improvement, it was absolutely necessary that they should expend somewhat more than had been expended in the year 1870.

As respects Bengal, his view was, that he should scarcely be able to maintain the Services which were made over on the reduced and economical scale of 1870; but it would be totally impossible to make new roads and other necessary improvements. We should find more than enough to do to maintain the Services in their present condition; but he believed we should not be able to continue in the path of improvement without some additional taxation. In fact, in the province of Bengal, he did not see his way to making a single improvement without some additional taxation.

The following Select Committee was named:—

On the Bill to amend the Railway Act—The Hon'ble Messrs. Strachey, Stephen, and Cockerell and the Mover.

The Council adjourned to Thursday, the 6th April 1871.

CALCUTTA,
The 31st March 1871.

WHITLEY STOKES,
Secy. to the Govt. of India.

Office Supdt. Govt. Printing.—No. 9373 L. C.—14-4-71.—220.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 *&* 25 *Vic., cap.* 67.

The Council met at Government House, Allahabad, on Thursday, the 6th April 1871.

PRESENT:

His Excellency the Viceroy and Governor General of India, K. P., G. M. S. I., *presiding.*

His Honour the Lieutenant Governor of the North-Western Provinces.

The Hon'ble John Strachey.

The Hon'ble Sir Richard Temple, K. C. S. I.

The Hon'ble J. Fitzjames Stephen, Q. C.

The Hon'ble B. H. Ellis.

The Hon'ble F. R. Cockerell.

The Hon'ble J. F. D. Inglis.

LOCAL RATES (N. W. PROVINCES) BILL.

The Hon'ble MR. INGLIS moved that the report of the Select Committee on the Bill for the levy on land of rates to be applied to local purposes in the North-Western Provinces be taken into consideration. The only alteration of any importance made in the Bill by the Select Committee was in section ten. The Committee had struck out from this section the words "such assignment shall not be less than seventy-five per cent. of the total sum assessed in such District," and had made it incumbent on the Local Government to assign for expenditure in each district the full amount raised in it under the Act.

The Hon'ble the LIEUTENANT-GOVERNOR said:—"MY LORD, This Bill having been introduced on my responsibility, some explanation will, no doubt, be expected from me as to the occasion for it, as well as my reasons for the withdrawal of the License Bill.

"I think myself happy, My Lord, in being present at this meeting of the Imperial Council; for the occasion is a very special one, the first on which this Council has ever sat within the limits of the North-West Provinces, and I trust that the success of the day's proceedings may shew that the precedent is a good one. And not only is the occasion special, but a special interest attaches to it. The Bill to be passed is the first measure for giving effect in these Provinces to the great scheme of decentralization so happily inaugurated by Your Excellency. From this measure I anticipate the most essential benefits. Not that, under the previous system, there was extravagance or any

want of zeal and devotion to the public service. I believe that all laboured with honest and earnest endeavour. But the result of individual and provincial efforts was merged in those of the Empire at large, and so lost sight of. Each felt that he was but a part of the great machine, carried forward by an irresistible central force. But now, being partly disconnected, the effect of individual and provincial efforts will be seen in the progress of each province. A more lively apprehension of responsibility will be created; the interest felt in the success of each branch of the service will be sharpened by seeing its immediate and direct effect upon the local administration; fertility of design and readiness of resource will be stimulated, and greater promptitude of action secured. And between the different Administrations, a generous rivalry will arise, which Province shall make the greatest progress, and with the least burden to the people.

"I can assure Your Excellency on my own part, and on the part of all the Chief Officers subordinate to me, that we shall heartily and earnestly co-operate according to our several positions and ability in the carrying out of this great measure.

"And now, as regards the Bill; it is intended to arm the Government with the necessary powers for raising funds to meet the share of the imperial deficit (£46,000) assessed upon these Provinces, and a further deficit (which will be alluded to hereafter) arising from a short grant for Public Works.

"The following is an abstract of the budget for the North-Western Provinces for 1871-72, which will show how the money will be applied :—

Charges.	£
Transferred Departments ...	837,615
Rural Police	180,216
District Schools	35,000
District Dák	12,672
District Communications (Local Funds)	97,387
Ferry Fund Establishments and other charges	20,127
Audit Charges	1,400
Total ...	£1,184,417

Receipts.	£	£
Nett grant from India ...	634,991	
Departmental Receipts ...	103,472	
		738,463
Ferry Fund		73,708*
Local Funds.		
Pounds	6,115	
Staging Bungalows ...	2,241	
Nuzool	6,651	
		15,007
Local Taxes.		
Local Cess		298,446
Acreage Cess		36,814
Benares Road Fund		5,600
Police Jageers commuted ...		11,300
Cess on Maafee holdings		5,000
Government Contribution for District Dák		6,000
Total ...		£1,190,338

* Net Ferry Fund Receipts £ 58,700.

"Thus, our total receipts for the year are estimated at £1,190,338, and our charges at £1,184,417, leaving a surplus of £5,921, or, in round numbers, £6,000.

"There is still a question pending, whether the further charge will not be made against us of £13,300 for Public Works Establishments; but should this (which I hope not) be given against us, we shall still be able to defray it from the special subsidy for the year granted in the Financial Despatch of 20th March.

"Thus, My Lord, we have succeeded in adjusting our budget without having recourse to the License Tax; that is, with £100,000 less than was at first anticipated by this Government; and it will naturally be asked, how it is that our accounts have turned out so much better than was expected in the Despatch from this Government under date the 27th January last.

"The difference is owing partly to retrenchments, and partly to errors in the original estimates. I will notice the chief of these:—

"*First*, Rural Police.—The charge on this account was estimated by the Nynee Tal Committee at £250,000. In the Despatch of 27th January, it was reduced to £207,500; the estimate, as finally prepared by the Inspector General of Police, is £180,216, which gives a saving of £27,284. But the revision is hardly yet completed, and this sum may be insufficient. Especially, we have been obliged to dispense with Jemadars of Rural Police, a highly useful institution, but one which the necessity of meeting the existing deficit renders for the present impossible. We propose hereafter, as the Local Cess is extended to the six remaining districts, to remedy this deficiency.

"*Second.*—The Public Works Budget has been retrenched by £25,000.* The estimates have been now cut down to the lowest point compatible with efficiency.

* Civil Buildings ...	£15,000
Communications ...	2,500
Repairs to buildings	2,500
Roads ...	5,000
TOTAL	£25,000

"*Third.*—The estimates for Local (Road and Ferry) Funds were pitched too high by Colonel Hodgson with reference to the estimates of previous years, which were swollen by credits from the one per cent. income-tax and Accumulated Ferry Fund balances—resources that have now come to an end. On a careful review of the district budgets, to bring them within the current receipts from Local Funds, the estimate has been cut down from £123,100 to £97,387, or a saving of £25,713.

"*Fourth.*—The next is an error of estimate. The Ferry Fund income was put at £40,000, the sum estimated by Colonel Hodgson. The estimate of

the Accountant General gives a nett sum of £58,700, being a difference in favour of the budget of £18,700.

"*Fifth.*—The entire grant proposed for 'Sanitation and Public Improvements,' £30,000, has been struck out. Extensive operations are projected during this year in the upper portion of the Doab, where a widespread and fatal fever originating in malarious causes, which it is hoped to ameliorate, has prevailed to a melancholy extent; but we have considerable balances in those districts at credit of the Local Cess, which can be devoted to the purpose. Eventually, budget provision will have to be made in future years for these objects, and the sum entered in the first estimate, which is little more than £900 a district, does not appear excessive. But it is not required in the present season; and when it is required, no doubt the improved state of our finances (from the extension of the Local Cess) will admit of the appropriation necessary for the purpose.

"On the other hand, we over-estimated the income from the Local Cess. It was at first put down at £324,362; a closer account only gives for the present year £298,446, being a diminution of £15,916.

"Thus, on the whole, we have a nett reduction on our former estimates of £100,781,* or just about the sum which the License Tax was expected to yield.

		£
*(1).	Reduction in Rural Police Estimate	27,284
(2).	Retrenchments in Public Works Estimates ...	25,000
(3).	Over-estimate in Local Funds Budget ...	25,713
(4).	Add for Ferry Fund Receipts under-estimated	18,700
(5).	Sanitation, &c., struck out	30,000
	TOTAL ...	126,697
Deduct for Local Cess income over-estimated ...		25,916
Net difference between former and present Estimates		100,781

"It will naturally be inquired, why, in January last, legislation was proposed on estimates of income and expenditure that have proved so imperfect. My reply is, that the time was short; we were close upon the end of the year; and if legislative measures for taxation were to be passed at all, no time was to be lost. As it is, we have entered into the new financial year, and our Local Cess Bill, which is necessary to carry us through our difficulties, has yet to be passed. I acted on the best information at my disposal. There had been no time to inaugurate the necessary accounts and budgets, and the estimates were distinctly avowed to be imperfect and open to change.† But the data were sufficient for proposing ways and means to meet the maximum charge then anticipated; and it was intended to put these in force, in greater or less measure, only as they might be found to be actually required.

† Paragraph 41 of letter dated 27th January 1871.

"It is to myself, personally, a cause of extreme satisfaction that we are now in a position to do without the License Tax; for, though the rates were low and such as could not have been much felt in any individual case, yet the application of the measure would have reached over the length and breadth of these Provinces, and the working of it would have been cumbersome, if not irksome to the people.

"Turning now to the estimates, as finally adjusted, I must call attention to the fact that the equilibrium of the budget, as it now stands, has been attained mainly by applying the surplus of the 'Local Cess' to liquidate the share of the deficit assessed on this Government, together with the further deficit arising from the short Public Works grant assigned to us.

"If Hon'ble Members will refer to the first entry in the abstract statement of the budget in their hands, they will see that the nett grant assigned to us by India is £738,463, while the corresponding charges for the transferred Services amount to £837,615, leaving to be made up by local taxation £99,152; that is to say, instead of the share of deficit imposed on us of £46,000, we have in point of fact to make up £99,000. Now, as the (full) grants for all the other Services, excepting Public Works, suffice, or nearly suffice, to meet the charges against them, it follows that the difference, or £53,000, arises from shortness of the Public Works grant; the share of the imperial deficit (£46,000) falling to the Public Works Department is about £10,700; instead of which that Department will cost £53,000 more, or, in all, there is a deficit of some £63,000, instead of £10,700, to be made up from local taxation for the Public Works Department.

"Our position, My Lord, is that this deficit is caused by the inadequacy of the grant made to us; the expenditure of the previous year 1870-71 (assumed by the Financial Department as the standard for our grant) having been, in consequence of the spasmodic stoppage of works during the year, quite inadequate to the normal requirements of these Provinces.

"This position has been traversed by Your Excellency's Government; more especially, my hon'ble friend, Sir Richard Temple, in the debate of the 18th March, 'denied that they imposed anything more than £46,000.' And again,—'the utmost amount that could be raised on our compulsion was £46,000. Whatever amount was raised beyond that, was raised because the local authorities believed that it could be equitably and reasonably raised; they were responsible, and not the Government of India, for every farthing that was raised beyond the £46,000.' And, again, in the Financial Despatch of 10th March

it is said that, with the exception of one year, 'the new grant is really as high as any ever made;' and, further, that these Provinces 'are largely more favoured than any other part of British India;' and that 'if a severely equitable standard had been applied in apportioning the provincial grants, the allotments for Public Works to the North-West Provinces must have been sensibly reduced.' These statements appear to mean that the grant made to us is ample for all our purposes, and, by implication, that our extra expenditure of £60,000 is extravagant.

"Now, My Lord, I think it can be shown, upon the ground taken up by Your Excellency's own Government, that our demands are not extravagant, but, on the contrary, very moderate. The nett grant (excluding Establishments, &c., regarding which there is at present no question) for Public Works is £147,000. Our budget is—

For Civil buildings	£	97,500
„ Road	„	102,000
Total	£	200,000

"The Financial Department, in the Despatch above quoted, have taken as a fair standard of comparison the expenditure on Public Works during the eight years preceding 1870-71. Now, taking the figures of that Despatch, I find that we have been spending annually ... £ 195,131

We receive ... ... „ 147,100

Less £ 48,000

that is, we receive £48,000 less than we have been expending during the last eight years. But this is not all. I hold in my hand a memorandum by Mr. H. Marten, the able and accurate Controller of Public Works Accounts, in which he shows that, besides the above expenditure, we have been aiding imperial communications from the one per cent. Income Tax Fund, during these eight years, to the annual amount of £22,000. In point of fact, then, our average expenditure for imperial works has been £217,131, and our future grant for the same Services is thus about £70,000 less than the average for these eight years, and this, besides our share of the deficit on the other transferred Services.

"Three points have been stated in the same Despatch why we should be content with a smaller grant—

First, that an assignment of £25,000 has been made this year for the Raneekhet and Chukrata Military roads.

Second, the large expenditure on the Public Offices and Government House at Allahabad.

Third, the great expenditure in these Provinces for Railways and Canals.

"The first argument is based on a misconception; for, prior to 1870-71, the expenditure on these roads was a Military charge; that is, it was a charge over and above the £217,000 annually expended; it cannot, therefore, be taken into the account. And, so far as the two roads themselves are concerned, they are purely for Military purposes, and have no direct bearing on our Civil requirements.

"On the second point, I may be permitted to say that I am happy at length in having provided for the Head of this Government a house, which, although I trust not on an extravagant scale, is yet in some degree fit for the reception of Your Excellency and the Imperial Council on this auspicious occasion. And yet, My Lord, in reference to a Province which Mr. Grant Duff, in a recent debate in Parliament, described as 'about equal in area to Great Britain and more densely peopled,' one can hardly suppose that the cost of this house (£15,000 to 17,000), spread over three or four years, should have any sensible effect on the surplus of future years.

"As regards the Public Offices, there is no doubt that they have taken a large slice (an average annual expenditure of £20,000) from our available funds. But I would submit two considerations. *First*, during these late years we have enjoyed extra funds, on which has been devolved the expenditure drawn aside for the Public Offices, namely, the one per cent. Income Tax, which, (besides the £22,000 before mentioned) gave us an average annual extraordinary outlay of £15,000. We have also for two or three years had an extra income of £30,000 from the accumulated Ferry Fund balances. But even with these aids, there is no doubt that the diversion of our funds towards the construction of the Public Offices has caused the postponement of some urgent works and repairs throughout the country. For example, the great Saugor road is in a most discreditable state of disrepair; and if any emergency required the march of troops from Jhansee to Cawnpore, and there were to be rain at the same time, the force would probably be disabled in the mud. And so, in the same quarter, the Deputy Commissioner's office at Orai has now for some time been reported positively unsafe; and yet we have not had funds to build another. Now, My Lord, in matters of right and wrong, the maxim *Fiat justitia, ruat cœlum* is to be followed; but I submit that no such maxim is applicable to retrenchments in Public Works, and that I am bound to see to the safety of life and limb, and to maintain our public buildings and communications in a secure and efficient state.

"The third objection relates to the great expenditure in these Provinces on Railways and Canals. Mr. Chapman writes:—

'The Lieutenant Governor also altogether places out of view the very large extraordinary expenditure which is going on in the North-Western Provinces on the construction of Railways and Canals; works which give the very best possible means of communication. For canals alone, next year, the estimated outlay is £350,000. The precise amount to be laid out next year on Railways is not yet known, but it may be noticed that lines are in course of construction through almost all the districts between the Ganges, the Gogra, as well as a line from Agra, and that the share of the North-Western Provinces in the outlay must be not far from a million sterling at the least.'

"Now, My Lord, we are not unmindful of these benefits, but they bring no relief to the Public Works expenditure. We are fortunate, indeed, beyond all other Provinces in our share of these blessings; but they add to, not detract from, our obligations and expenditure.

"The Ganges Canal will, by the great extension recently sanctioned by Your Excellency, prolong its channel to Allahabad, thus watering the whole Doab; the East Ganges Canal will extend the same blessings and the same security to Rohilkund; and the Agra Canal to the thirsty tracts bordering on the right bank of the Jumna; all scattering fertility and wealth in their progress. But, so far as the Public Works are concerned, the increased production will simply bring increased traffic on our roads, and impose the opening up of new approaches to the ghâts where the canal boats load and unload their freights.

"And so with Railways. We are deeply thankful for them. They indeed are the harbingers of life, of civilization and progress, stimulating traffic and developing the resources of the country. But they have not enabled us to dispense with a single road. On the contrary, every new railway-station implies the necessity of providing one or more approaches to it on either side. And then, new entrepôts and centres of traffic are created by the railways, all demanding the opening up of new lines and corresponding means of communication.

"In fact, My Lord, these Provinces are stretching themselves out as with the growth of a new youth; and, as in animal life, so here, the expanding thews and sinews must not suffer for want of nutriment and sustenance.

"And so we think that, with increasing wants, we have done well, not ill, in bringing down our budget to £200,000, instead of £217,000, the average of preceding years.

"To meet these wants, we receive, for this and all future years, but £147,000; because, in 1870-71, we promptly and loyally obeyed Your Excellency's call to cut down our expenditure; and in proportion to the loyalty and promptness of our obedience, our grant has suffered.

"I think I have shewn, My Lord, that the starved and mutilated grant, corresponding with the outlay of 1870-71, is no proper standard for the normal wants of the North-West Provinces; and that our deficit is not attributable to extravagance, but to the inadequacy of the appropriation assigned to us by Your Lordship's Government.

"We have, then, £53,000 to make up in consequence of the short grant for Public Works, besides our share of the imperial deficit, £46,000, or in round numbers £100,000; and this we propose to do under this Bill by savings from the Local Cess.

"The Bill has been fully explained upon former occasions by my hon'ble friend, Mr. Inglis. I need not dwell on the first part of it, which merely legalizes a cess already recognized. We only anticipate its action by extending the cess to all districts of which the term of the thirty years' settlement has expired. But a few remarks may seem called for on the 'Acreage Cess' now for the first time introduced into the Benares districts, and the more so, as the principle of the cess has been questioned in this Council by His Honour the Lieutenant Governor of Bengal.

"Three plans were open to us. We might impose—

(1) A percentage or cess on the land-revenue.

(2) A rate on the profits from the land.

(3) An acreage rate.

"First, a percentage on the land-revenue would have been in no way distinguishable from an increase of revenue; and from such we are barred by the terms of the Permanent Settlement: besides, the revenue itself has long ceased to be an index of actual profits.

"The second plan, or a rate on profits, would have necessitated a difficult and complicated investigation into nett income, and have opened a wide door to corruption and harassing interference.

"From all this, the acreage cess is free. The amount is certain; there can be no extortion. Undoubtedly, it will not fall equally, since the value of

land varies. But we shall carefully watch its effects; where it presses heavily, it will be our part to ameliorate the pressure; and hereafter, if necessary, we may perhaps be able to profit by the experience of Bengal, should a corresponding tax be there imposed.

"I do not now dwell on the objections which are urged in the petition from the Committee of Benares Land-holders, because I understand that they will be fully discussed by my learned and hon'ble friend Mr. Stephen. I may, however, notice, with reference to the statement that cesses are paid in the Benares district for Education and the District-dâk, that these will be merged in, and superseded by, the new taxation.

"And now, My Lord, before concluding, there are two subjects to which I crave Your Excellency's attention.

"By this great and wise measure of decentralization, while the Supreme Government is lightened of a large share of primary action, the responsibilities of the local Head of the Administration are vastly enhanced. The distribution of a Million and a quarter sterling is committed to his discretion among various departments, each regarding (and not unnaturally) its own claims as paramount.

"Not to speak of idiosyncracies and possible leanings of the Head of the Government himself, he may well ask to be strengthened by the association with him of two or more constitutional advisers. I cannot speak too strongly of the loyal, ready and most zealous aid and counsel, which, from first to last, I have received from the Chief Officers around me; but there is a difference in the advice thus tendered by irresponsible advisers, and that of constituted and responsible Counsellors, whose opinions are recorded, and by which they must stand. I submit to Your Excellency's consideration that, for the satisfactory working of the decentralization scheme, a local Financial Council would be most useful.

"And why, My Lord, should there not be a local Legislative Council also? We have all the elements for it here. Besides official members, there are many independent Native gentlemen well fitted to aid in such a Council. It is true that, compared with the presidency towns, the non-official European element is small; but even from these, worthy representatives might no doubt be found.

"Such a local Council would, I submit, be better fitted than the Imperial Legislature, for discussing and settling local measures like this Bill, Choukeedary arrangements, Municipal measures, and such like matters.

"With a local Council, such measures would be discussed in Committee; would be debated in open Council; the measures and the reasons for them would become locally known; would be taken up by the Native as well as the European Press, and would thus become familiar to the community. In short, they would acquire what, I submit, they have not now, a popular aspect.

"My Lord, it is my constant, my earnest endeavour and desire to lead the people to administer their own affairs. In all my circuits, it is one of the first things I seek to impress upon the Municipal Committees, that self-government is one grand object of our municipal institutions. And they are beginning to respond. I am convinced that no measure would tend more directly to foster this spirit of independent action than a well-selected Legislative Council, with representative men, *seen* and *felt* to be debating on questions affecting their own people.

"And who, My Lord, would be better qualified for effective local legislation? Wants and wishes, and it may be prejudices, all bearing upon local legislation, are surely best known to the inhabitants of the Province. Here, also, would be best known the capacities and requirements of the Administration: as the crew of a ship best know what their own vessel can perform—when to loosen this cord, and when to tighten that, when to crowd sail, and when to take it in; so the local Council would be best qualified to watch the progress and course of the local Administration, and to shape their measures accordingly.

"I know, My Lord, that the proposal is not one at present in favour; but my conviction is that the constitution of such a Council is simply a question of time, and I feel that I merely discharge a duty to the Provinces over which I am placed by Your Excellency, in submitting thus openly my opinion, in the hope that such expression of my views may lead to the earlier consummation of a measure so much to be desired."

The Hon'ble SIR RICHARD TEMPLE said,—"My Lord, I came here today intending to keep silence, but I fear that there are one or two points which I am obliged to notice. And as I have thus to speak, I may commence by congratulating His Honour the Lieutenant Governor on the local budget for the North-West Provinces which he has laid before the Council. It is satisfactory to find that, with the Land-rate Bill, but without the License Bill, the local resources (irrespective of the regular revenue) will amount to half a million. It is still more satisfactory to find that the necessity for imposing the license-tax has been avoided by reducing expenditure. This supplies a good instance of the working of the new plan of local finance.

The Local Government has to decide whether it will do without certain expenditure, or find the means of defraying. It chooses the former alternative. And this brings me to the point of what I have to say.

"His Honour remarks very truly that, on a recent occasion at Calcutta, I adverted to the argument of the North-West Government as to the allotments of 1870-71 being too small to be a basis for the new allotments, and rejoined that the 1870-71 allotments were no worse for the North-West Provinces than for any other part of India; that without the new scheme, we could not have afforded to give any more; that the new scheme only compelled the Local Government to raise £46,000, and that whatever might be raised beyond that sum would be raised on the responsibility of the local Government. I am sorry to find to-day that the Lieutenant Governor does not approve that view, though I could hardly expect, perhaps, that he would approve it. Nevertheless I must still adhere to that view.

"His Honour does indeed show that the Public Works grants for 1870-71 were, for the North-West Provinces, lower than the actual expenditure for several years previous. No doubt; but is this circumstance peculiar to the North-West Government? Not at all; it is common to all other Local Governments in India. They have all suffered much alike from reduction of grants. In the expenditure of former years, exhibited to-day by the Lieutenant Governor, are included the old allotments from income-tax money. This circumstance, again, is common to all Local Governments alike. One reason for the North-West expenditure having been perhaps abnormally high for some time was, that the extensive structures for the accommodation of the entire head-quarters of the administration have had to be built. The task has indeed been well fulfilled. But it will not always continue to be a drain on the resources of these Provinces.

"The Lieutenant Governor shows that the £147,000 granted by the Government of India for Public Works is not enough, and ought to be £200,000 and more. Very likely. But what then? We (the Government of India) cannot afford more than the £147,000. And if the Provinces want more, they must find it. And the affair must be theirs and not ours. His Honour objects to £147,000 being regarded as a standard of comparison. Well, it may not be a proper standard; but at all events it is the only practicable basis.

"In short, all that the Lieutenant Governor has said, with great force, to-day, might be said, and indeed has been said, by every Local Government throughout India. The North-West Government has been loyal in reducing Public Works expenditure. No doubt; and there has been loyalty in other

Governments also; and there has been reduction of Public Works expenditure everywhere.

"As is well known, the Government of India has not hesitated, and will not hesitate, to incur responsibility, however grave, in respect to taxation whenever necessary. But that is no reason why Local Governments should not, together with their increased authority in financial matters, bear an increased share in deciding whether expenditure shall be reduced or local taxation augmented—a decision which they are most competent to form."

The Hon'ble MR. STEPHEN said:—MY LORD, "As it is one of the objects of the Bill now under the consideration of the Council to authorize the Local Government of the North-West Provinces to impose cesses for certain specified purposes upon the permanently settled districts of these provinces, and as many persons have maintained that the imposition of such cesses, either upon these provinces or upon the province of Lower Bengal, is a breach of the pledge given at the Permanent Settlement, I desire to make some observations upon the character of that famous transaction with the view of showing that the present measure in no way interferes with any pledge then given, and that the moral right of the Government to impose such cesses, if it thinks them necessary, is as unquestionable as its legal right to do so.

"What I have to say upon this matter applies, of course, in the first instance, to the permanently settled districts of the North-West, but it applies with equal force to Lower Bengal.

"The character of the pledges given at the Permanent Settlement, and the degree in which those pledges still continue to bind the hands of the Government of India, both in their executive and in their legislative capacity, have been of late years the subject of much discussion.

"Many arguments have been advanced upon the subject in the public Press and elsewhere, which I have read with regret, partly because they appear to me calculated to shake the confidence of the Natives in the good faith of the British Government, and partly because they are usually founded upon an imperfect and one-sided apprehension of important truths; and it may be well if I say a few words upon these arguments in the first instance, before I state my own view as to the true purport of the Permanent Settlement and its bearing upon the measure now before the Council, and other measures of the same character which there may or may not be occasion to introduce into the Legislative Council of the Lieutenant-Governor of Bengal.

"I have seen and read allegations that, as permanency can hardly be regarded as an attribute of human arrangements, and as no one generation of lawgivers can irrevocably bind another to a certain course of conduct, it is idle to object to any law on the ground that it is a violation of the pledges given at the Permanent Settlement. Who, it has been asked, was Lord Cornwallis, that he should be able, in 1793, to tie the hands of his successors in 1871, and to force them to maintain an arrangement made by him, whether they think it a good one or a bad one, merely because he made it? There have been, it is alleged, in Europe and even in England, abundance of laws which have been described as irrevocable, fundamental and incapable of alteration. For instance, the Act of Union between England and Scotland assumes this character, and declares, amongst other things, that the Established Churches of England and Scotland are to be maintained inviolate; but does any one seriously believe that Parliament, if it thought fit to do so, might not reconsider the relations of Church and State both in England and in Scotland and recast those establishments according to the views of general expediency which it might entertain, or even abolish them altogether, notwithstanding the strongest expressions which were, or which could have been, introduced into the Act of Queen Anne? How can a Regulation made by the East India Company claim a degree of sanctity which does not attach to the Acts of the Parliaments of two Kingdoms, which Acts formed, so to speak, the title-deed on the faith of which each surrendered its independent existence in order to merge it in a common whole?

"The writings of some of the most popular and influential of the authors who have treated of late years of the principles of jurisprudence, may be quoted in support of these views. Mr. Austin, for instance, teaches expressly that, if any one legislature affects to tie the hands of its successors, it affects to do that which is beyond its power. Law is law, because it is the expression of the will of those who have the power to enforce it; but those who are dead and gone have no longer the power to enforce anything at all. Hence, the laws which they made are laws only in so far as their successors accept and enforce them, and lose their character as law when their successors refuse to carry them out. Applying this to the Permanent Settlement, it may be said, it is not to Lord Cornwallis and his advisers, but to those who rule India in the present day, that the Permanent Settlement owes its authority. How, then, can they be debarred by restrictions of Lord Cornwallis from entering upon the question whether or not the Permanent Settlement was and is beneficial?

"As I said, I have seen these arguments used with regret, and with the more regret because they undoubtedly have a certain substratum of truth. The

objection to the theory of which they are applications is, not that it is false, but that it is partial; that it applies to legal right and wrong, and does not deal with the question of moral right and wrong. It is no doubt of the highest importance in all inquiries into jurisprudence to keep these points distinct, and to bear in mind the fact that the legality of a particular measure depends, generally speaking, upon considerations wholly distinct from those which determine its morality; but it is even more important to remember that, just because moral and legal questions are distinct, the moral propriety of a proposed measure may require justification, even after its legality has been established beyond question.

"With reference to the present matter, it may, I think, be affirmed with perfect truth that your Lordship and the Council have the legal power to repeal Regulation I of 1793, which embodies the Permanent Settlement, just as you have the legal power to do a vast number of other things good or bad; but whether you have the moral right to do it, and whether the particular measure now before the Council purports to do anything of the sort, are separate questions which require independent consideration.

"In considering the question of the moral right of the Government to alter the arrangements made at the Permanent Settlement, it appears to me that the leading consideration to be kept in view is as follows:—We are not a representative Government. With every wish on the part of every member of the Government to use his powers for the benefit of those whose interests they affect, it is impossible not to feel at every turn how great are the differences between the governors and the governed, and how supremely important it is for all parties that, whatever else the people of the country may feel about their rulers, they should feel perfect confidence in their good faith and in their scrupulous observance of their promises. A really representative Government may deal with the pledges of their predecessors in a very different way from a Government like ours. If Parliament, representing as it does the views and feelings of the population of the United Kingdom, should see fit to re-open the question of the Scotch and English Church Establishments, it would be absurd to say that they were debarred from doing so by the Act of Queen Anne. They are themselves the representatives of the descendants of those by whom the Act of Union was passed, and they have the same moral right to undo what their predecessors did in a matter affecting the English nation for the time being, as a man has to re-consider resolutions which he has made at any particular period of his life as to his own subsequent conduct, in matters in which he has entered into no contract with others. We, on the other hand, are

in a position more nearly resembling that of a person who has made a contract to his release from which the consent of the other party is necessary. Those to whom we succeed, and whose policy laid the foundations of the power which we possess, deliberately gave to a large and influential class of the population over which we exercise that power, a pledge on the faith of which relations have grown up which modify the whole frame-work of society. I do not say that these arrangements can never be altered. I do not say that Lord Cornwallis and his colleagues had the power to make an everlasting decree which could never be broken. I carefully avoid the expression of any opinion whatever as to the wisdom, or as to the effects, of his policy; but I do say, as emphatically as I can, that the Permanent Settlement ought to be scrupulously observed, both in letter and in spirit, till the Natives of the country, the descendants or representatives of those with whom it was made, express in some distinct, unequivocal manner their deliberate and general wish that the question should be re-opened. This must be taken with the further remark, to which I shall return, that the pledges in the Settlement must be reasonably construed. It is, as I shall show, possible to put upon them a construction which would render it necessary to consider the question of our moral duty to keep them, for, that there are limits to that duty cannot be doubted. I do not think that the bare opinion of the Government, or of the European community, that the Permanent Settlement is injurious to the prosperity of Bengal, supposing such an opinion to exist, would justify its re-consideration. Under the circumstances of the case, I think that, before they could justly set it aside, the Native community ought to be of the same opinion; and holding this view, it is almost needless to add that the arguments which go to prove our legal power to repeal it appear to me to be beside the mark. They are like arguments to show that our legal powers would extend to the enactment of laws for religious persecution or any other enormity. It is idle, and it may be mischievous and dangerous, to discuss the question whether we have the legal right to do that which a sense of honour and justice forbid us to do.

"Before I leave this part of the subject, I must add one further remark. When I say that, in my opinion, the Permanent Settlement ought to be scrupulously observed both in letter and in spirit, I do not mean to exclude the right on the part of the Government, which is essential to the true interpretation of all such transactions, to take into consideration the gradual alteration produced by time and circumstance and the influence of surrounding facts. A great public act like the Permanent Settlement is not to be interpreted, and can never have been meant to be interpreted, merely by reference to the terms of the document in which it is contained. Its meaning must be collected from

people say 'Oh, do not expect that the local taxation you may be forced to impose will be a bit more popular than your own.' I have never heard that any taxation was popular, and I believe that a great deal of unpopularity must always attach itself to every new burden. We have heard a good deal of 'inventive genius' lately, but I do not believe that the 'genius' has yet existed who devised a tax that people liked. We leave these questions to be decided by those who best know the special circumstances of each province. But though there may be some truth in the remark, that new taxes will be always unpopular and distasteful, still I am not without hope that, as it is now decided that the whole of these new imposts are to be spent on objects which will contribute to the health, wealth and comfort of the people, they will gradually discover that the new money they pay is spent for their especial benefit. I cannot but think that when a man sees that the road is brought to his door; that his family are protected from those outbursts of fever and other diseases which are unfortunately so prevalent; that when he sees the school-child growing into an educated man, he will begin to think how and for what these levies are made, and will understand 'the reason why.' Though some time may elapse before these objects are attained, much greater safety may be looked forward to in levying those contributions, than if they were merely paid to fill the general coffers of the State.

"The remarks of the Lieutenant Governor with regard to administration are worthy of every consideration. It is no light thing to be engaged in the duties of administering the financial affairs of a great province. I can only say that the Government of India will give every consideration to any suggestion made by the Local Governments as to such administrative changes as may tend to afford greater responsible assistance.

"As regards the increase in the number of local legislatures, that is a matter that must be most carefully considered, it does not really press. Very grave constitutional questions arise in connexion therewith. Much may be said in favour of it; there are very strong arguments against it; but at all events, speaking generally for the Legislative Council of the Governor General, I am perfectly certain that those of the Local Governments who have no Legislative Council will always find the Government of India ready and willing to pass through this Council any such measures as they may deem necessary for the welfare of their province.

"I will only add one word more, and that is to express my great satisfaction at the opinions enunciated by the Lieutenant-Governor in regard to Local Com-

mittees; that is to say, with regard to the assistance they may receive from the Natives of the country, as to the management of their affairs. I had the satisfaction of mentioning the other day how the Lieutenant-Governor of a neighbouring province had pushed on that good work.

"I believe the Lieutenant-Governor of the North-West has done no less than Sir Donald McLeod in this respect, and I believe that no man can devote his time or his labour to a work that will be so certain to effect a more immediate result, than the development of those institutions which have always, and in every country, formed the germ of good government."

The Hon'ble the LIEUTENANT-GOVERNOR said:—"MY LORD, I wish to state my views on the application of the principle laid down by my learned and hon'ble friend, Mr. Stephen, to the Benares districts; but I will first take the opportunity of making one or two brief remarks upon the other speeches just delivered.

"And, first, as to the financial argument; I have listened to it attentively, but fail to be convinced. However, we shall not the less cheerfully accept the deficit, and do our best, in the way I have already sketched, to meet it with the least detriment possible to other interests. At any rate, My Lord, we have one consolation left to us; we feel that it is our misfortune and not our fault.

"Next, my hon'ble friend, Mr. Strachey, has quite misapprehended the action of this Government, when he says that £35,000 is all the new taxation which has been raised, and that this, therefore, is the extent of our deficit, and not, as I have stated, close on £100,000. My hon'ble friend has not apparently understood what I have been at some pains to explain, that the 'Local Cess' (extended by anticipation to all districts open to settlement) is what we have chiefly drawn upon to make up the deficit, and that the deficit thus made up is close on £100,000. To effect this, we have diverted funds originally intended for other objects—such as Drainage and Sanitation and other public improvements—and we have also cut down the Police (a first charge on the 'Local Cess') within limits that may be found too contracted, and have in particular been obliged for the present to give up the institution of rural Police Jamadárs.

"Again, I do not think my hon'ble friend, Sir Richard Temple, is quite fair to this Government when he attributes wholly to the pressure brought to bear on us by the new scheme, the savings and reductions in our original estimates which have enabled us to dispense with the License Bill. When that Bill was projected, our accounts, as I have shown, were very imperfect, and our budgets only

in part prepared. Why, then, should he assume that, in completing and reviewing our estimates, we should not have made retrenchments and savings of our own motion? My Lord, it is our duty to study economy, and in the final preparation of our estimates I trust we should not have been unmindful of the duty. But it is not the case that the withdrawal of the Bill is due (except in a very limited measure) to savings and retrenchments. For, as I attempted to show item by item, it was due mainly to errors and imperfections in the first accounts laid before this Government.

"I now pass on, My Lord, to the subject which has led me again to occupy the time of the Council. And, at the outset, I trust Your Excellency will allow me to tender my thanks to my learned and hon'ble friend, Mr. Stephen, for the clear and eloquent exposition he has given us of the liabilities of the Benares landed proprietors. Agreeing entirely in the principle that taxation of permanently assessed estates for local purposes is proper, so long as the burden is imposed on landed, in common with other, property, I purpose to show that other property is now taxed for purposes similar to those contemplated in the Bill. It is taxed (as surmised by my learned and hon'ble friend) through the Municipalities which exist now in all our large towns. We have now in these Provinces no fewer than 66 Municipalities, raising between them an income of some 17 lákhs, or £170,000. A first charge by law on this revenue is the City Police, and the Municipalities moreover defray the cost of their Roads, Drainage, Sanitation, &c. Many of them contribute also to Education, Dispensaries, Vaccination, Poor-houses, &c. They have just been reminded by a General Order that these latter objects are contemplated equally with the former in the Municipal law (Act VI, 1868); and that, although the License Bill, which would have enforced the obligation, has been withdrawn, the obligation as explained by the Secretary of State remains unaltered.

"Seeing, then, that the urban population are taxed for the expenses of their Police, Roads, Drainage, &c., the principle of the Bill is fully justified which imposes corresponding obligations on proprietors of land in the Benares districts.

"And the same principle applies to districts settled for terms; but there, we hold that our ten per cent. cess (the 'Local Cess'), imposed in addition to the land-revenue, meets the obligation fully,—for the present at least. And for the future, no further taxation would be justified, unless some corresponding *additional* burden were placed on other property likewise; and thus, (in the language of Her Majesty's Secretary of State) such taxation would be 'upon all holders of property equally, without distinction and without exemption.'

"These remarks on the liability of temporarily settled districts to further taxation are perhaps necessary in consequence of certain observations which fell from hon'ble members (in a former debate on these local Bills), implying that the settlements of these Provinces are unduly low, and, *because unduly low*, that they are in some way more open to the imposition of additional cesses for the future.

"My Lord, considerable misconception prevails as to the adequacy of the assessment in the Settlements now being revised. It is not a subject that can be properly discussed desultorily in a debate like the present; but as such assertions have been made in a previous debate, it seems incumbent on me to suggest a few considerations in support of the opposite opinion.

"First, then, it has been urged that, if the country throve under an assessment at two-thirds of the rental, what need is there of still further lowering it to one-half? To this the obvious reply is, that the circumstances differ. *Then*, there was a large margin of fallow land which, under the protection of a thirty years' settlement, was speedily brought under the plough. So that, in point of fact, the country has thriven under an assessment which speedily became greatly more favourable than one at two-thirds of the assets; indeed, very generally, more favourable than an assessment at even half the assets.

"Again, the settlement, as concluded thirty years ago, was often at the first lower than two-thirds of the assets, because the means of accurate ascertainment were not then so perfect as they are now. This I can vouch for from my own experience as a settlement officer. After an assessment had been made, the rentals given in for record by the proprietors were often much higher than I had anticipated; sometimes even double the assessment.

"Where, on the other hand, the assessment was severely pitched at the full rate of two-thirds of the rental, the districts generally pulled through with difficulty, until increase of cultivation or rise in prices brought relief. Meanwhile the agricultural communities suffered; sales and enforced transfers of the land for arrears were frequent; and in some districts the Settlement entirely 'broke down,' and the assessment had to be lowered.

"Some facts on this point will be found in a Note prepared at my request by Mr. Auckland Colvin, the able Secretary of the Revenue Board: it has been hastily drawn up for the occasion, but will, I think, be found conclusive. And I trust that Your Excellency will permit it to be published in the official supplement to the *Gazette of India*, in order that the justification of our settlements may have the same publicity as the imputations of their inadequacy.

"But, further, the conditions of landed property in these Provinces oblige us to assess lower than if we had to deal *only with ryots* or *with large landholders*. As a rule, land in these Provinces is held by proprietary communities, often themselves also cultivators, and by small zemíndárs. Now, our present settlements are not responsible for this state of property. We found these proprietors, or quasi-proprietors, here seventy years ago. Whether we might not then have modified their position and their rights is a point not now in question. We began from the very first by recognizing them as proprietors; the course of three-quarters of a century's legislation has securely built them up as such; and long before Mr. Bird's settlement, a valuable property had been created, which it was impossible (even had it been expedient) to disturb.

"Taking, then (as we cannot but take), the state of property as we find it, the margin of profit left, after payment of the revenue as now fixed, is not too great for the maintenance of a substantial and contented peasantry. Mr. Colvin shows that, for an average cultivating proprietor, it does not exceed, at a favourable computation, some five rupees per mensem (less than three shillings a week) for a family. Indeed, in some places the sub-division of property is so great, that Settlement Officers find they cannot assess up to fifty per cent. of the rental;—the yeomanry of the country would break down under the increased demand.

"No doubt rentals have a tendency to increase after settlement; but this tendency is not overlooked by Settlement Officers. Their instructions are, while not discounting mere probabilities or theoretical prospects of enhanced rentals, yet to assess on the widest induction of facts, and the broadest estimates of value.

"It must also be remembered that the rise of rent is not in immediate proportion to rise of prices; it is shackled by custom, as well as impeded by law of which the policy is, to maintain a class of beneficial occupants of the soil. Settlement Officers must take things as they find them; they must deal with facts, and not with theories.

"My Lord, our Settlement Officers are the finest body of men, the most zealous, the most able, that could be met with anywhere; picked men from a picked service; holding, and not fearing independently to express, their own opinions on all the difficult questions that come before them. Of each it might be said,—'*Nullius addictus jurare in verba magistri.*' And I believe, if the question were put to them, the almost unanimous answer would be that they have assessed as high as is compatible with the prosperity of the country.

"The actual increase of demand under the settlements now going on has been, up to date, above twenty lákhs, or £203,977; and this on a previous revenue of £1,430,664;—being at the rate of fourteen per cent. The whole Land Revenue to be revised is ordinarily stated (and was so stated in the debate to which allusion has been just made) at £4,000,000; but this is a mistake, for of this sum about £560,000 belong to the Benares districts, which (having been permanently assessed at the end of last century) are not open to revision. The revenue demand subject to revision is therefore only £3,440,000: it has already been raised to £3,640,000; and (though it is not easy to hazard estimates of future revision) will rise probably to above £3,900,000, if not nearly to Four Millions; and this, in addition to the £560,000 of the Benares districts.

"And now, My Lord, I may state my own conviction that, under the existing condition of property, and with the present advanced state of agriculture, the assessments now being made are, *as a rule*, not lower, or not materially lower, than is required for the well-being of the people. In short, the standard introduced by Mr. J. R. Colvin in 1854 well became the broad statesmanship and far-seeing views of that great man. The measure has involved no undue sacrifice, when we consider the nature of the property to be dealt with. The result is, a prosperous and contented peasantry; a proprietary with capital sufficient for improvements, and for tiding over those seasons of difficulty to which unfortunately we are here so liable; and a steady development of the country's resources.

"But, My Lord, whether light or heavy, the great Charter of our revenue settlements is their inviolability. After the engagement has been ratified, it would be a breach of it to step in and say, 'Because your profits are greater than they need be, you shall pay an extra cess,' (unless, indeed, we do so on the principle just laid down by Mr. Stephen, that is to say, in just proportion to additional burdens imposed on all property alike). Were we to act thus, we should shake confidence and destroy the security of property in land. The proprietors would say to themselves, 'If the Government takes an addition to the present demand upon us of two or three per cent. because we are well off now, what security have we that a few years hence the Government may not again step in and take five or ten per cent. because there is a new deficit, and we are thought to be still better off?'

"My Lord, it is the integrity of these settlements which broadly and yet sharply distinguishes our administration from all Native administrations. It is the *limitation* of our demand, as my learned and hon'ble friend has so clearly

shewn, that creates a valuable property in land. It is the secure and inviolable limitation of the demand (whether for revenue, or cesses, there is no difference) that creates a *secure and certain value* in the land. And it is the absence of this that makes landed property of little or no marketable value in Native States. And whatever tampers with this limitation (excepting always burdens imposed on the broad and equitable principle expounded by Mr. Stephen) vitiates and undermines the value of property.

"I understand that it is advocated, in certain influential quarters, to alter the present system by which Government enters into engagements, and thus limits its demand, both in respect of revenue and of extra payments for village cesses and burdens. It is now, I understand, proposed to enter into engagement only for the 'Revenue,' leaving the State at liberty, in all time to come, to impose additional cesses and burdens at discretion.

"My Lord, I earnestly trust that no such alteration will be allowed by Your Excellency's Government. I trust that we shall not with one hand ratify the limitation, and undo it with the other, by retaining liberty to add to the demand, if only it be under the name of 'Cesses' or under any name other than 'Revenue.' It does not matter, My Lord, under what name the enhancement is taken. It will equally undermine the value and security of property.

"This proposal, taken in connection with the charge of the inadequacy of our assessments, is indicative, My Lord, to my mind, of one of those great and violent oscillations of opinion, so dangerous and yet unfortunately so common in India: a reaction arising, perhaps, from the proposal to apply the principles of the Permanent Settlement to parts of the country not yet ripe for it; perhaps also a reaction caused by the application of the half-asset standard of assessment to other Provinces, where, from the prevalence of great estates, or from low and backward cultivation and development, a higher standard might have been justified.

"However this may be, I earnestly hope that, as regards these Provinces at least, Your Excellency will not consent to any relaxation of the integrity of our settlements; an integrity which constitutes their great virtue, the cardinal and indispensable condition of our prosperity."

The Hon'ble MR. STRACHEY would not discuss further the questions connected with the system of settlement followed in Northern India to which His Honour the Lieutenant-Governor had referred, because those questions had really very little to do with the Bill now before the Council.

But he could not leave in silence the remarks which His Honour had made in regard to the cesses imposed for local purposes on the land. His Honour had spoken as if there were a desire in some quarters to undermine the stability and integrity of the settlements. MR. STRACHEY not only desired altogether to disclaim for his own part ever having uttered a single word which was open to such a construction, but in all the discussions which had taken place he was not aware that any single authority had given even a hint of an opinion that the settlement engagements ought not to be strictly adhered to. In regard to the question of these local cesses, not only in permanently but in temporarily settled districts, the despatch of the Secretary of State, to which the Hon'ble Mr. Stephen had referred, contained everything which in MR. STRACHEY's opinion need be said. For his own part he agreed entirely, and in every particular, with the Secretary of State's conclusions, nor did his own views go in any respect beyond those which the Secretary of State had expressed. MR. STRACHEY regretted that the conclusions of the Secretary of State's despatch should apparently not have been accepted by His Honour the Lieutenant-Governor.

The Hon'ble MR. INGLIS said that the opinion just now expressed by the Hon'ble Mr. Strachey that, while the demand on account of land-revenue in the temporarily settled districts was properly fixed for periods of twenty or thirty years, the demand on account of cesses should be liable to increase during that time at the will of the Government, was altogether opposed to the principles on which the settlements of the districts in the North-West Provinces, liable to periodical revision, had hitherto been made. The principle adopted here had been to fix, at the time of the revision of the assessment of an estate, the full sum to be paid by the landlord on account of revenue and cesses for the whole period of his lease, and this was, MR. INGLIS contended, the only correct principle; the only one by which the full benefits expected from the limitation of the Government demand for periods of twenty or thirty years could be secured. He was certain that the holders of estates in the districts of which the settlement made under Regulation IX of 1833 had been revised, and from whom engagements for the payment of the land-revenue and cesses in a lump sum had been taken, would look upon the rule proposed by the Hon'ble Mr. Strachey as a violation of the expectations held out to them when their leases were signed.

There was this further objection to the course proposed, namely, that any increase to the cesses, made during the currency of a terminable settlement, must ultimately affect the land-revenue demand. An estate could only bear a certain charge; if the portion of this which was credited as cesses was increased

during the term of settlement, a corresponding reduction must be made in the sum which, but for this, would have been credited to Government as increased land-revenue when the assessment of the estate came under revision.

It should be remembered that the point at issue is not whether landholders in the temporarily settled districts should pay cesses to local purposes or not, or whether property in land in those districts is liable to taxation in common with all other property during the currency of a settlement, if the exigencies of the State required this; but the question is, whether the amount specially charged on the land as cesses in addition to the taxes it is liable to in common with all other property should be fixed for the term of settlement when the assessment of the estate is made, or should be, as proposed by the Hon'ble Mr. Strachey, liable to constant increase during that period at the pleasure of Government. Now, it is only when a district is under revision of settlement that the full amount payable on estates in it, on account of land-revenue and cesses, can be ascertained correctly, or distributed equally; for it is then only that we have officers specially selected for the duty, who have the knowledge and the opportunities requisite for carrying out the laborious investigations necessary to determine this. To levy an increased rate on account of cesses by a fixed percentage on the Government demand for land-revenue at any time during the currency of a settlement fixed for twenty or thirty years, is to impose a special tax on the land, from which other property is exempt, which would fall very unequally on the landholders, and which would press with undue severity on the holders of estates in backward tracts, where the profits from the land had not increased since the settlement was last made.

He (Mr. Inglis) might be asked, why, holding these opinions, he did not oppose the Oudh Land Rate Bill? His reasons for not opposing that measure were, first, that the Chief Commissioner told us the landholders had agreed to the proposed cess; and secondly, because the revised assessments of that Province had not yet been confirmed.

He did not deny that it was in the power of Government to rule that, while the demand on account of land-revenue in the temporarily settled districts should be fixed for periods of twenty or thirty years, the demand on account of cesses should be liable to increase at any time at the pleasure of Government; that is, he did not know of any legal obstacle to this; but he maintained, nevertheless, that it would be a most unwise course to adopt; it would go far to do away with all the good obtained by fixing the Government demand for periods of twenty or thirty years; it would most certainly, as pointed out by His Honour the Lieutenant-Governor, tend to destroy the confidence of the people in the stability

of our settlements, and would consequently affect injuriously the value of all landed property. He should therefore protest strongly against the application of any rule such as that proposed by the Hon'ble Mr. Strachey to the temporarily settled districts of the North-Western Provinces.

The HON'BLE MR. ELLIS said that he had not intended to address the Council today, and so long as other speakers expressed views in which he concurred, there was no occasion for him to do so. He was not called on to criticize His Honour the Lieutenant-Governor's exposition of his local budget, and the Hon'ble Mr. Stephen had so ably expounded his views on the Permanent Settlement as affected by this Bill, that MR. ELLIS conceived that it was superfluous to say anything, as he entirely concurred in all that had fallen from his hon'ble friend. But in the last speech of His Honour the Lieutenant-Governor, there were one or two points on which he could not agree with His Honour. The Council had been told that His Honour refrained from pressing the License Tax Bill, because he had been able to make good, from other sources of income, the amount that it had been proposed to raise by that Bill, and that he had made up this amount partly by appropriations from funds raised for other purposes. MR. ELLIS might have misunderstood His Honour, but if he correctly appreciated the proceedings of the Government of the North-West Provinces, he thought it was much to be regretted that such appropriations had been resorted to, as it could not be right to devote sums raised for specific objects to any objects other than those for which they were raised. The course taken was one for the Local Government rather than for the Government of India to justify, and he only hoped that there would be sufficient justification, and that the Bill now postponed would not shortly have to be again brought forward, owing to a feeling that cesses levied for a specific purpose had been too hastily re-appropriated for other Services.

Another point on which MR. ELLIS differed was in regard to the observations made by His Honour on the subject of cesses on lands not permanently settled; observations which were concurred in by the Hon'ble Mr. Inglis, and probably by the revenue officers of these provinces generally. MR. ELLIS referred to His Honour's remark, that in imposing cesses on land separately from and outside the engagements entered into for the payment of land-revenue, we were taking a mischievous course, calculated to shake the confidence of land-owners in the stability of our engagements; and further, that we ought not to impose cesses during the currency of a settlement, and that the amount of such cesses ought to be fixed as part of the payments included in the engagement for the land-revenue. He must join issue with His Honour in this matter. MR. ELLIS con-

ceived that His Honour had overlooked the difference between these local rates, which were essentially taxes, and the land-revenue. We could not ask any one to enter into an engagement to pay a tax, and, when the legislature had decided that a tax should be imposed in the shape of a local rate on the land, it was not the usual course to ask the tax-payers to enter into engagements such as they gave for the payment of land-revenue. Nor was the view taken by His Honour regarding the imposition of cesses during the currency of a settlement consistent with His Honour's approval of the principles laid down by the Hon'ble Mr. Stephen regarding permanently settled districts. His Honour had expressed full concurrence in all that had been said in favour of imposing cesses on land in permanently settled districts; yet every word was equally applicable to the imposition of similar taxation in districts settled for shorter or longer periods. If such cesses were part and parcel of the land-revenue, they would be equally objectionable in either case; so also were they in either case justifiable, if held to be local rates or taxes independent of the land-revenue. MR. ELLIS could not conceive how any one who admitted the propriety of levying these rates notwithstanding a permanent settlement of the land-revenues, could object to the same cesses being levied independently of engagements for the land-revenue in temporarily settled districts. MR. ELLIS did not question the policy of fixing the amount of the taxes, as a rule, at the same time as the land-revenue is settled; because, from an administrative point of view, it would be expedient to determine, so far as is possible, at one and the same time, all the burdens on the land, however varied in their character; just as, for the sake of convenience of administration, it is expedient to collect local rates on land together with the land-revenue. But he could not go beyond this, or concede the propriety of including the cess in the engagement for the land-revenue, seeing that the adoption of this course had led the authorities, and might lead the people, to forget the difference between local rates or taxes and the ordinary Government land-revenue.

The Motion was put and agreed to.

The Hon'ble MR. INGLIS also moved that the words "and District Post" be added to clause two, section ten. A portion of the sum raised as cesses in the temporarily settled districts, amounting to one-quarter per cent. on the jama, had, ever since the cess was first levied, been set apart for the mantenance of the District Post. About seven or eight years ago, this sum was made over to the Post Office Department on condition that the district official correspondence should be carried free of charge. As long as this arrangement continued, it was necessary that the Local Govern-

ment should pay over to the Postal Department the sum agreed upon; but unless the words proposed to be added to section ten were inserted, it would not be within the power of the Local Government to make any payment on account of the District Post from the sum raised under this Act.

The Motion was put and agreed to.

The Hon'ble MR. INGLIS also moved that the Bill as amended be passed.

The Motion was put and agreed to.

LICENSE TAX (N. W. PROVINCES AND OUDH) BILL.

The Hon'ble MR. INGLIS asked leave to withdraw the Bill for imposing a duty on certain trades and dealings in the North-Western Provinces and Oudh.

Leave was granted.

The Council adjourned *sine die*.

ALLAHABAD,
The 6th April 1871.

WHITLEY STOKES,
Secy. to the Govt. of India,
Legislative Department.

Office Supdt. Govt. Printing No. 1102 L. C.—15-5-71.—220.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 *Vic., Cap.* 67.

The Council met at Simla on Saturday, the 6th May 1871.

The Council adjourned to Friday, the 12th May 1871.

H. S. CUNNINGHAM,

SIMLA; *The 6th May* 1871. } *Offg. Secy. to the Council of the Governor General for making Laws and Regulations.*

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 *Vic., Cap.* 67.

The Council met at Simla on Friday, the 12th May 1871.

PRESENT:

His Excellency the Viceroy and Governor General of India, K. P., G. M. S. I., *presiding.*

His Honour the Lieutenant-Governor of the Panjáb.

His Excellency the Commander-in-Chief, G. C. B., G. C. S. I.

The Hon'ble John Strachey.

The Hon'ble Sir Richard Temple, K. C. S. I.

The Hon'ble J. Fitzjames Stephen, Q. C.

The Hon'ble B. H. Ellis.

Major-General the Hon'ble H. W. Norman, C. B.

The Hon'ble F. R. Cockerell.

SESSIONS COURTS BILL.

The Hon'ble MR. STEPHEN moved to introduce the Bill to amend the law relating to the Courts of Session. He said—"My Lord, I have the honour to introduce a Bill, of which the title is 'The Bengal Sessions Courts Act, 1871.' As I shall have to request your Lordship to suspend the standing orders so

that the Bill may be passed in a single sitting, I must give a full explanation of that very unusual course.

"The objects of the Bill are to enable the Lieutenant-Governors of Bengal and the North-Western Provinces to appoint Sessions Judges and Additional Sessions Judges for those provinces, and to define and vary the local limits of their jurisdictions, to confirm all past appointments and proceedings, and to indemnify all persons who have acted under them.

"The reason why such an Act is required is, I regret to say, that all the appointments of all the Sessions Judges in Bengal and the North-Western Provinces are illegal; that all the trials had before them have been irregular and might be set aside, and that this state of things has been going on certainly since the year 1868, and probably since the year 1829. I will proceed to state to your Lordship how this extraordinary state of things came into existence. In order to do this it is necessary to go back to the first establishment of Criminal Courts in Bengal. A complete history of them is given in the preamble to Regulation IX of 1793, but I need at present refer only to the last of several measures which preceded the enactment of that Regulation. It is described in the following words:—

"'The Governor General in Council passed certain Regulations on the 3rd December '1790, establishing Courts of Circuit under the superintendence of English Judges, assisted by 'Natives versed in the Mahomedan law for trying, in the first instance, persons charged with 'crimes or misdemeanors, and enabling the Governor General and the Members of the 'Supreme Council to sit in the Nizamut Adawlut and superintend the administration of 'criminal justice throughout the provinces.'

"In the year 1793, four Courts of Circuit were established, which were to try criminal cases of importance, subject to the superintendence of the Nizamat Adálat or Superior Criminal Court.

"The Courts of Circuit continued to exist till the year 1829, when they were abolished by Regulation I of that year. This Regulation divided Bengal into twenty Commissionerships, transferred to the Commissioners all the powers previously exercised by the Courts of Circuit, and required them to hold sessions of gaol delivery when ordered to do so.

"Part of section 5 of this Regulation is in these words—

"'It shall be at all times competent to the Governor General in Council to direct any 'Commissioner, Judge of Appeal, or other Judge, not being the Magistrate by whom the com-'mitments were made, to hold the sessions of gaol delivery for any city or zillah, with the

'powers and authority of a Court of Circuit, without vesting him with the general powers of 'a Commissioner within the division, whenever the arrangement may appear to be necessary 'for the prompt and efficient administration of justice, and circumstances may render it in-'convenient to appoint such officer to officiate with all the powers of the Commissioner of the 'division.'

"The Commissioners thus became throughout Bengal the Criminal Judges in all cases of importance.

"In 1831, it was found that the work was too heavy for the Commissioners, and a Regulation (Regulation VII) was passed, the second section of which was in the following words :—

" 'Whenever, from the pressure of business devolving on a Commissioner of Revenue and 'Circuit, or other cause, the measure shall be deemed advisable, it shall be competent to the 'Governor General in Council, by an order in Council, to invest the Judges of the zillahs or 'cities within such divisions with full powers to conduct the duties of the Sessions.'

"In the five following sections the officers thus to be appointed are described by the title of 'Session Judges,' and I believe that this is the origin of that title.

"Act VII of 1835 empowered the 'Governors of the Presidencies of Fort 'William in Bengal and of Agra, respectively, by an order under the signature 'of the Secretary to Government in the Judicial Department, to transfer any 'part, or the whole, of the duties connected with criminal justice from any 'Commissioner of Circuit to any Session Judge, and to define the powers which 'shall be exercised by each respectively.'

"The law stood thus down to the year 1868, and before I go further I may shortly state its effect.

"The Commissioners of Divisions, or, to use their proper title, the 'Commissioners of Revenue and Circuit' were, as indeed they still are, the representatives of the old Courts of Circuit, and the ordinary Criminal Judges of First Instance in all important cases; but the Governor General in Council had power to do one of two things, namely,—

"1. He might, under clause 2, section 5, Regulation I of 1829, appoint any Judge to hold the sessions of gaol delivery for any city or zila whenever the arrangement appeared to him to be necessary for 'the prompt and efficient administration of justice.'

"2. The Governor General in Council might 'invest the Judges of the zillahs or cities of divisions in which such a measure was deemed desirable with full powers to conduct the duties of the Sessions.'

"It seems clear to me, and the opinion is shared by the authorised legal advisers of the Government, that the first of these provisions, the one contained in the Regulation of 1829, contemplated the special appointment of a particular person to meet a temporary necessity. It will be observed that the appointment was to be made by the Governor General in Council, and this gives rise to a further remark which I shall make immediately.

"As to the provisions of Regulation VII of 1831, it is hard to say, as the language is exceedingly vague, whether it means that any Judge might be authorised to hold any particular Sessions in any specified zila, or that the Governor General in Council might invest all the Zila Judges in one or more specified divisions with power to conduct the duties of the Sessions.

"Be this how it may, neither course, I believe, has been taken for many years. The practice has been to appoint particular persons to be 'District and Sessions Judges,' and their appointments have been made by the Lieutenant-Governors of Bengal and of the North-Western Provinces, respectively, and not by the Governor General in Council. Whether the Lieutenant-Governors, as distinguished from the Governor General in Council, had the power to make these appointments, is a question not altogether free from difficulty; but I do not propose to examine it. It is, I think, perfectly clear, apart from this consideration, that the course of appointment pursued was irregular and warranted by no law or regulation. The Lieutenant-Governors did not appoint the Zila Judges under the Regulation of 1831, to 'conduct the duties of the Sessions,' nor did they invest them with the powers of the Commissioners for that purpose.

"As to Act VII of 1835, it is by no means easy to see how it could be acted upon, for it assumes the existence of a 'Session Judge,' and the only authority for the appointment of Session Judges was Regulation VII of 1831, to which I have already referred.

"The mode in which the Judges were appointed, and the singular and informal use of the expression 'Session Judge' in the Regulation to which I have referred, gradually gave the name to the office, and when the Code of Criminal Procedure was passed in 1861, the analogous name of 'Court of Session' was introduced into the Code. Section 22 of the Code of Criminal Procedure defines

the jurisdiction of Courts of Session; but I greatly doubt whether, in the whole of India, there is such a thing as a 'Court of Session,' except in the Panjáb. In Bengal and the North-West the powers (if any) of the Sessions Judges are derived from the old Courts of Circuit; neither in Madras or Bombay are the Sessions Judges directly connected by any law that I know of with the 'Court of Session' referred to in the Code of Criminal Procedure. In the Non-Regulation Provinces, other than the Panjáb, the jurisdiction of the Criminal Courts stands, I suppose, upon the general powers of Government exerted by executive orders which were confirmed by section 25 of the Indian Councils' Act, but these executive orders form the most obscure part of our whole legal system. In the Panjáb, the Courts established by the Panjáb Courts' Act have such powers as Criminal Courts as the Local Government may confer upon them, and I suppose that the Local Government has conferred upon them the powers which they habitually exercise.

"For these reasons it appears to me that the Sessions Judges, as they are called, never were properly appointed in Bengal and the North-West, since the practice of appointing them individually to be 'District and Sessions Judges' was first introduced, whenever that may have been; but I am sorry to say I have not got quite to the end of the history.

"In 1868, a repealing Act (VIII of 1868) was passed, which repealed a vast number of obsolete enactments. Amongst others, it repealed Regulation VII of 1831, under which Zila Judges could be appointed Session Judges; and Act VII of 1835, by which the 'duties connected with criminal justice' might be transferred from the Commissioners of Circuit to the Session Judges. Act VII of 1835 has never, I believe, been acted upon in recent times. And though the same persons have been appointed to be District and Sessions Judges they have not, as I have already shown, been appointed with express reference to Regulation VII of 1831. The repealing Act of 1868 accordingly cannot, I think, be said to have made any other difference in the validity of the appointments, than that it did away with one argument (I think it was a bad one) by which they might have been defended. After that Act came into force, the only law under which a Sessions Judge could be appointed was Regulation I of 1829, and that, as I have already pointed out, authorised only an appointment by the Governor General in Council for one particular occasion.

"This state of things was discovered sometime ago in the course of the investigations which have recently been made in the Legislative Department with a view to the consolidation and simplification of the law. We proposed

at first to deal with it in connection with the re-enactment of the Code of Criminal Procedure,—a measure which the newspapers tell us has been abandoned or at least indefinitely postponed, but with which I most certainly intend to proceed as soon as the Government returns to Calcutta. This course would have avoided patchwork legislation, but it was impossible to take it. The matter was brought before the notice of Government by an application from the Government of the North-Western Provinces with respect to the re-arrangement of the local jurisdiction of the Judge of Jounpúr, and it became apparent, upon examining into the matter, that it was impossible to effect this without legislation.

"Such is the history of the measure now submitted to your Lordship and the Council. It is in itself extremely simple, and merely converts into express law what has always hitherto been supposed to be the law. It enables the Lieutenant-Governors to appoint Sessions Judges, and to define and vary the local limits of their jurisdiction, confirms existing appointments, and invests the Judges appointed with the character of Courts of Session within the meaning of the Code of Criminal Procedure. Finally, it confirms all past proceedings, and indemnifies all officers by whom they were taken. I think that these provisions speak for themselves, and that I need not insist upon their importance or expediency.

"I have a few observations to make in conclusion. I have seen in the newspapers references to this matter, and charges founded upon it against the Legislative Department and its 'recklessness.' One of the accusations in question was that the Bengal Civil Courts Act had repealed a Regulation under which Sessions Judges were appointed. This is altogether incorrect. The Bengal Civil Courts Act did not repeal any such Regulation for two excellent reasons: First, there was no such Regulation to repeal; and next, if there had been, the Act dealt only with Civil and not with the Criminal Courts. I may incidentally observe that the Bengal Civil Courts Act did quietly cure a flaw in the constitution of the Civil Courts of Bengal, hardly less serious than the one in the constitution of the Criminal Courts which will be cured by the present Bill. What that flaw was it is not necessary for me to state, and as it is effectually cured it would not repay the ingenuity of the critics of the Legislative Department to try to find it out.

"The true inference from the statement which I have made appears to me to be that it is in the highest degree necessary that the laws of this country should be put into a definite, concise, and explicit form, instead of being allowed to

remain, as many of them have remained, for nearly a century, scattered over volumes of loosely-worded Regulations. Till within the last three months, it was necessary to refer to thirteen different Acts and Regulations, scattered over seventy-seven years, to ascertain the law as to the Civil Courts of Bengal, now contained in one Act of thirty-eight sections. I think it is altogether discreditable that, in two of the most important provinces of the empire, people should have gone on being hung, transported and imprisoned illegally for a period of probably nearly forty years. I can understand those who wish to have no laws at all, I can understand those who wish to have good laws; but people who, because they would prefer personal government to government by law, prefer confused laws to simple ones, and complain of reckless over-legislation when one simple Act is substituted for thirteen bits of Acts enacted at different times and couched in phraseology of very different styles, seem to me to labour under a lamentable confusion of thought. A pettifogging pleader is the only person who can really and logically object to the work of consolidation and re-enactment in which much progress has been made, and which I hope will soon be completed.

"I do not look with any great satisfaction on the Act which I now submit to your Lordship and the Council. It is a piece of patchwork, and as such, though necessary, is not to be commended. I hope that it may soon be superseded by something more comprehensive. It would be no very difficult matter, and it would be most important, to have a general Criminal Courts Act for the whole of India. I hope that it may be found practicable to pass such an Act in connection with the re-enactment of the Code of Criminal Procedure, which deals with the subject of Criminal Courts in a manner of which I will only say at present that it appears to me fragmentary, strange, and by no means well adjusted to other parts of the law.

"I may observe that the Madras Government has expressed a hope that a Bill upon the Madras Civil Courts will not be proceeded with until the question of the separation of the judicial and executive departments is finally settled. Such a suggestion appears to me equivalent to a proposal that the Bill may be postponed till the Greek calends. The question about the judicial and executive departments has been under discussion for years, and will probably continue to be discussed for years more. Whatever decision may be reached upon it in the course of time, it is obviously desirable that the law relating to the Madras Civil Courts should be put together in a convenient shape. To do so will be no sort of impediment to any future reform; but, on the contrary, it will be a step towards any reform which may be determined on as it will much diminish the labour of settling its details."

The Hon'ble Mr. Cockerell said that the statement of his hon'ble and learned friend indirectly raised the question of the propriety of the repeal of Regulation VII of 1831, and Act VII of 1835. As he was not only a member of this Council at the time of the passing of Act VIII of 1868, by which those enactments were repealed, but had charge of that measure, for a time at least, during its passage through the Council, and he was consequently, to a certain extent, more directly responsible for its details, he felt called upon to say a few words in regard to the considerations which led to those repeals.

The only clause in Regulation VII of 1831 which in any way connected the office of Sessions Judge with the successors of the Courts of Circuit had been already cited at length in the speech of the hon'ble Mover, and it would have been noticed probably that that clause contained no provision for the appointment of a "Sessions Judge," but simply empowered "the Governor General by an order in Council" to invest a Zila or District Judge with power to hold the sessions of gaol delivery—apparently within the local circuits of his jurisdiction as a Civil Judge, though this was not clearly expressed in the enactment.

The only legal effect of this Regulation was to empower the Government, whenever the measure might, from any local circumstances, appear desirable, to confer upon the Civil Judge of any district a concurrent jurisdiction for the purpose of holding the sessions with the Commissioner of Circuit.

The words " Sessions Judges so appointed," as had been already remarked, did occur in some of the subsequent sections of this Regulation, but their occurrence could be interpreted only as an indication of the prevalence at that period of a rather loose method of drafting; such an expression used in reference to what had gone before being wholly inaccurate.

From the whole context of the Regulation, as well as from the retention of the provisions of Regulation I of 1829 which established the Commissioner of Circuit as a Court of Session in succession to the abolished Court of Circuit, it was clear that the enactment gave nothing more than a discretionary power to be applied by the Executive under particular circumstances, and that it could not contemplate the absolute substitution of the District Judge for the Commissioner of Circuit in the conduct of the sessions duties. The Commissioners of Circuit retained their legal power of holding sessions up to the present time, and, indeed, in one division of Lower Bengal (he did not, of course, refer to Non-Regulation Provinces, in which the Commissioner was generally the *de facto* Sessions Judge) that power was still, he believed, habitually exercised,

But it was clear that the Executive had not relied upon this Regulation as validating the existing mode of appointment of Sessions Judges; for by no straining of terms could the Regulation be held to authorise more than the delegation to the Zila or District Judge of the duty of holding sessions, whereas since 1831 numerous appointments of officers, who were not District Judges, had been made from time to time to hold sessions, such officers being designated Additional Sessions Judges.

Moreover, in the absence of any precise definition by enactment of the local limits within which Civil Judges were to exercise criminal jurisdiction—the utmost that could be assumed was that their criminal was to be conterminous with their civil jurisdiction. Now, if the present practice was to adhere *generally* to any rule of this kind, such adherence was certainly not universal.

In illustration of this, he would take the case of Bíjnúr, in the North-Western Provinces. That district had no Resident Judge, and the present practice, as he was credibly informed—the Hon'ble Mr. Strachey, who was well acquainted with all matters connected with the local administration in Rohilkhund, would, perhaps, be so good as to correct him if he was wrong—was to delegate to the Judges of Bareilly and Sháhjehánpúr the duty of holding the sessions in the Bíjnúr District alternately. As this district could not be within the local limits of the civil jurisdiction of both those Judges, it was evident that no authority could, under any circumstances, have been derived from Regulation VII of 1831 for the assignment of this duty to both.

As regards Act VII of 1835, the partial character of the intended transfer of duties from the Commissioner of Circuit to the District Judge, and the reference to special circumstances by which it was to be regulated in each particular case, seemed to be even more marked, for the Act provides that—

"It shall be competent to the Governors of the Presidencies of Fort William in Bengal and of Agra, respectively, by an order under the signature of the Secretary to Government *in the Judicial Department*, to transfer any part, or the whole, of the duties connected with criminal justice *from any Commissioner of Circuit to any Session Judge, and to define the powers which shall be exercised by each respectively.*"

The justification of the repeal of those enactments, therefore, was that the practice which they authorised and enjoined had become obsolete, and was superseded by the existing mode of appointment of Sessions Judges, and the allotment of duties to those officers long before the passing of Act VIII of 1868, and that, as such appointments derived no validity from the enactments above referred to, their retention on the Statute-book was unnecessary and inexpedient.

He made these remarks for the purpose of exonerating the Council from the reproach, to which it was sometimes subjected, of rash or hasty legislation in the direction of indiscriminate and uncalled for repeals of previous enactments. He asserted that the repeals just referred to were certainly not made inadvertently, but after due deliberation; he submitted that, for the reasons which he had already given, they were perfectly justifiable, and he was strongly fortified in this view by the concurrent opinion expressed in the speech of his hon'ble and learned friend, who was not responsible for what was done in 1868.

In reference to the Bill now before them, he had only to add that if any further argument on the side of the advantages accruing, or likely to accrue, from the consolidation scheme, which had for sometime past occupied the attention of the Legislative Department, and was being gradually carried out, were needed, it could be supplied in a very forcible way by the circumstances which necessitated the introduction of this measure; for the preliminary work connected with the development of that scheme had led to the discovery of this grave flaw in the constitution of the Sessions Courts—a discovery which but for this work would probably have been left to the Courts themselves, and would in that case, whenever it occurred, have occasioned a more or less serious miscarriage of justice, which it would have been beyond the power of the legislature to rectify.

The Motion was put and agreed to.

The Hon'ble MR. STEPHEN having applied to His Excellency the President to suspend the Rules for the Conduct of Business,

The President declared the Rules suspended.

The Hon'ble MR. STEPHEN then moved that the Bill be taken into consideration.

The Motion was put and agreed to.

The Hon'ble MR. STEPHEN then moved that the Bill be passed.

The Motion was put and agreed to.

The Council adjourned to Friday, the 19th May 1871.

H. S. CUNNINGHAM,

Offg. Secy. to the Council of the Governor General for making Laws and Regulations.

SIMLA;
The 12th May 1871.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Simla on Friday, the 19th May 1871.

PRESENT:

His Excellency the Viceroy and Governor General of India, K. P., G. M. S. I., *presiding.*

His Honour the Lieutenant-Governor of the Panjáb.

The Hon'ble John Strachey.

The Hon'ble Sir Richard Temple, K. C. S. I.

The Hon'ble J. Fitzjames Stephen, Q. C.

The Hon'ble B. H. Ellis.

Major-General the Hon'ble H. W. Norman, C. B.

The Hon'ble F. R. Cockerell.

GENERAL REGULATIONS AND ACTS (DEHRÁ DÚN) BILL.

The Hon'ble MR. COCKERELL introduced the Bill to bring the Dehrá Dún within the operation of the General Regulations and Acts, and moved that it be referred to a Select Committee with instructions to report in a fortnight. He said that the tract of country called the Dehrá Dún originally formed part of the territory ceded by the Nepaleese to the British Government in 1815.

By Regulation IV of 1817 this tract was annexed to the district of Saharunpúr, and thereupon became subject to the General Regulations in force in that district.

It was subsequently, by Regulation XXI of 1825, detached from Saharunpúr and transferred to the jurisdiction of the Commissioner of the Non-Regulation Province of Kumaon. That enactment also expressly provided that the Regulations should cease to be in force in the Dún upon its incorporation with Kumaon.

By Regulation V of 1829 the Dún was separated from Kumaon, and it would appear to have been assumed that the effect of such separation was to relegate that tract to its former status, previous to the passing of Regulation XXI of 1825, by which it was detached from Saharunpúr.

However that might be, for about forty years the administration of justice had been carried on in the Dehrá Dún on the supposition that the General Regulations and Acts were legally applicable to that tract.

The ruling of the High Court at Allahabad in the case of Dick v. Heseltine, in effect declared the whole of this procedure to have been illegal, inasmuch as Regulation V of 1829, which contained no provision in regard to the law in force in the Dehrá Dún, could not be held to authorise the revival of the operation of the Regulations which had been expressly made to cease within that tract by Regulation XXI of 1825.

This decision of the High Court necessitated recourse to legislation; and it was originally proposed to effect the formal extension of the Regulations and Acts to the Dehrá Dún by the Bill to 'declare and consolidate the law relating to the local extent of the General Regulations and Acts,' which was introduced into this Council in February of last year.

From various causes there had been considerable difficulty and consequent delay, and still further delay was anticipated, in the adjustment of the details of that measure. Meanwhile, the existing difficulty as regards the law in force in the Dehrá Dún, demanded early remedial action.

This Bill was brought forward, therefore, as an *ad interim* measure for curing the invalidity of the proceedings of the local courts and officers exercising jurisdiction within the Dehrá Dún, by giving legal confirmation to the application of the General Regulations and Acts to that tract retrospectively.

The Motion was put and agreed to.

The following Select Committee was named:—

On the Bill to bring the Dehrá Dún within the operation of the General Regulations and Acts:—The Hon'ble Messrs. Strachey and Stephen and the Mover.

The Council adjourned to Friday, the 26th May 1871.

H. S. CUNNINGHAM,

Offg. Secy. to the Council of the Governor General for making Laws and Regulations.

SIMLA;
The 19th May 1871.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Simla on Friday, the 26th May 1871.

PRESENT:

His Excellency the Viceroy and Governor General of India, K. P., G. M. S. I., *presiding.*
His Honour the Lieutenant-Governor of the Panjáb.
The Hon'ble John Strachey.
The Hon'ble Sir Richard Temple, K. C. S. I.
The Hon'ble J. Fitzjames Stephen, Q. C.
The Hon'ble B. H. Ellis.
Major-General the Hon'ble H. W. Norman, C. B.
The Hon'ble F. R. Cockerell.

LOCAL RATES (PANJÁB) BILL.

His Honour the LIEUTENANT-GOVERNOR of the Panjáb introduced the Bill to provide for the levy of local rates in the Panjáb, and moved that it be referred to a Select Committee with instructions to report in three weeks. He said—

"MY LORD,—I move to introduce a Bill to provide for the levy of rates in the Panjáb.

"This Bill was originally in charge of my hon'ble friend Mr. Ellis, who has contributed much to its present shape, and has been made over to my care to give me an opportunity of stating to the Council the actual condition of the newly-constituted provincial finances.

"The object of the Bill is simply to impose on all productive land in the Panjáb, a rate of three per cent. on its annual value, equivalent to one of six per cent. on the land-revenue; and it may be as well to mention that the assessment even of land, exempt from revenue demand, was determined at the time of settlement.

"The necessity for this additional taxation is two-fold: It is partly caused by the abridgement of the allotments heretofore set apart from imperial funds for the performance of certain services now transferred to the immediate management and control of the Local Government; and, in connection with this part of the subject, I regret to be obliged to trouble the Council with some of the principal figures of the Provincial Budget.

RECEIPTS.		£
I.—Imperial grant, corrected to date, and so including that for district dâk now transferred		533,300
II.—Provincial rates and taxes (including *all* collected under the existing law)		56,426
III.—VII.—Transferred departments (including police receipts against direct charge, both which receipt and charge have heretofore been included in the imperial account) ...		93,018
VIII.—Miscellaneous	£	13,053
Including earnings of—		
Staging bungalows and serais ...	5,925	
Cattle pounds	6,408	
IX.—Public Works		77,387
Including endowments ...	6,700	
Tolls ...	56,233	
Deficit		62,427
TOTAL ...		835,611

CHARGES.		£
1—6.—Transferred departments (including local educational charges heretofore taken only against local funds, as well as municipal and other police charges heretofore brought in on both sides of the imperial account)		527,392
7.—Miscellaneous	£	22,698
Including local collection and account (except P. W. Office) ...	4,173	
District dâk	9,300	
Serais and staging bungalows ...	4,262	
8.—Public Works		285,521

Including—	Original works.	Repairs.
	£	£
Communications (roads and bridges) ...	64,502	90,137
Miscellaneous public improvements ...	3,348	8,216
Civil buildings ...	36,616	6,928
Establishment, local ...	...	11,426
share of general or imperial ...	...	32,217

TOTAL ... 835,611

To meet an expenditure of £835,611 a sum of only £773,184 is forthcoming, leaving a deficit of £62,427 to be supplied.

"On the charges I will, in passing, only observe that £148,924 of the expenditure under "Public Works" being for "repairs and establishments," and only £104,466 for original works, there is *primâ facie* a disproportion between the two charges resulting from the contraction of the funds available for construction.

"The second reason for additional taxation is the growing demand amongst the rural districts for improved communications. This is the

consequence of the high price of produce prevalent for some years past, which renders it so much better worth a man's while than formerly to send his grain to distant markets for sale. It is very undesirable that a real want of this kind, arising as it does from the increase of trade and multiplication of business, should remain unsatisfied. Moreover, though now under British Government for a quarter of a century, the Panjáb is in many parts still destitute of the public buildings essential to effective administration, and the long postponement of their erection is highly inconvenient.

"But it will be asked could not the funds required be derived from savings and retrenchment? I need hardly say that this question has been seriously and attentively considered. It was examined in detail by a committee presided over by the able and experienced Financial Commissioner of these Provinces, Mr. Robert Egerton; but I regret to say that no substantial saving has been suggested, except under the head of Police by the abolition of the appointment of Deputy Inspector General. This, if effected, would give £6,300; but the question is one connected with administrative conside[illegible]der [illegible]erations, and un[illegible] no circumstances could any relief be obtained at an early period.

"The necessity for additional taxation being admitted, is the mode prescribed by the Bill that which most recommends itself by its efficiency and adaptation to the habits of the people laid under contribution? As the principle on which it is founded has already been sanctioned in respect of the North-Western Provinces and Oudh, I need not dilate on its effects. There is a general agreement that the people of the Panjáb, though quite as averse to all taxation as their neighbours, will more readily acquiesce in the imposition of a light rate on the land than in any other demand, for it is in accordance with their remembrance of old times, with their customs and usages, and with the immemorial practice of former rulers.

"The gross yield of the rate calculated on a land-revenue, stated according to the latest returns at £1,859,117, will amount to £132,557. But certain deductions have to be made on account of lands already paying the double road cess under the proceedings of the revised settlement, on account of the remuneration payable to the headmen of villages, to which is due some part of the comparative popularity of this system of fiscal contribution, and on account of unforeseen deficiencies to be expected in actual realization. Hence, I fear that it will not be safe to estimate the net income from this source at more than £110,000. The incidence of the rate will be—

Per head of agricultural population	...	2 annas 2⅓ pie.
„ acre of cultivated land ...	...	1 anna.
„ acre of málguzárí land ...	...	8·2 pie.

and the recital of these figures will, I think, demonstrate that no very heavy burden is being added to the taxes already payable.

"There remains the important question whether the general condition of the country warrants the imposition of any additional burden at all. Having consulted those most competent to judge of the capabilities of the agricultural community, I am enabled confidently to answer this question in the affirmative. I can point to the fact recorded in the census report of 1868 that, whilst population had increased only in the ratio of 11½, cultivation had increased in the ratio of 31½ per cent., as well as to the greatly-enhanced prices obtainable by sale of land. And there is a general consensus of opinion attesting the unprecedented prosperity of all classes connected with the soil. And, although I cannot contend that those classes are identical with the fortunate sections of the community benefiting through the relinquishment by the imperial exchequer of the greater part of the income tax, they nevertheless [illegible] the general relief consequent on the remission of taxation, am[illegible] share in [illegible] Province. to £86,860 [illegible] mounting, as it does in this [illegible]

"It may, perhaps, be urged that there is some inequality in confining the new demands to the agricultural classes. But I would point out that about two millions of the non-agriculturists are brought under contribution through the agency of the municipalities, and that the town-duties have recently been materially increased by the admission into the schedule of piece goods and metals.

"I am not aware, my Lord, that there is any other point to which I need now advert.

"Having explained to your Excellency in Council briefly, but I trust with sufficient distinctness, the leading objects of the Bill; having shewn that, whilst it is necessitated by the prudent and politic limitation set by the Government of India to the pecuniary grants hitherto made in furtherance of purposes, illimitable in themselves, of provincial improvement, moral and material, it is at the same time designed to raise, by a procedure well understood by the populations concerned, the funds indispensable to the maintenance of even that abated speed of progress demanded by a yet backward civilization; and having further shewn that it is impracticable by any mere process of redistribution and retrenchment to avoid additional taxation, and that the salient and vigourous agricultural industry of these Provinces can sustain, without injury, the moderate rates proposed, it only remains for me to move that the Bill be referred to the scrutiny and revision of a Select Committee."

The Motion was put and agreed to.

CRIMINAL TRIBES BILL.

The Hon'ble Mr. Stephen moved that His Honour the Lieutenant-Governor of the Panjáb be added to the Select Committee on the Bill for the Registration of Criminal Tribes and Eunuchs.

The Motion was put and agreed to.

The following Select Committee was named: —

On the Bill to provide for the levy of local rates in the Panjáb—The Hon'ble Messrs. Strachey, Stephen, Ellis and Cockerell, and the Mover.

The Council adjourned to Tuesday, the 30th May 1871.

H. S. CUNNINGHAM,
Offg. Secy. to the Council of the Governor General for making Laws and Regulations.

Simla;
The 26th May 1871.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Simla on Tuesday, the 6th June 1871.

PRESENT:

His Excellency the Viceroy and Governor General of India, K. P., G. M. S. I., *presiding.*
His Excellency the Commander-in-Chief, G. C. B., G. C. S. I.
The Hon'ble Sir Richard Temple, K. C. S. I.
The Hon'ble J. Fitzjames Stephen, Q. C.
The Hon'ble B. H. Ellis.
Major-General the Hon'ble H. W. Norman, C. B.
The Hon'ble F. R. Cockerell.

CHAUKÍDÁRÍ ACT EXTENSION BILL.

The Hon'ble MR. STEPHEN moved that the Hon'ble Mr. Strachey be added to the Select Committee on the Bill to authorise the extension of the Chaukídárí Act (XX of 1856) to places where there is no Jamadár of Police.

The Motion was put and agreed to.

LAND IMPROVEMENT BILL.

The Hon'ble MR. STEPHEN moved with the permission of the President, on behalf of the Hon'ble Mr. Strachey, that His Honour the Lieutenant-Governor of the Panjáb be added to the Select Committee on the Bill to consolidate and amend the law relating to advances of money by the Government for the improvement of land.

The Motion was put and agreed to.

The Council adjourned to Tuesday, the 13th June 1871.

H. S. CUNNINGHAM,
Offg. Secy. to the Council of the Governor General for making Laws and Regulations.

SIMLA;
The 6th June 1871.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Simla on Tuesday, the 13th June 1871.

PRESENT:

His Excellency the Viceroy and Governor General of India, K. P., G. M. S. I., *presiding.*

His Honour the Lieutenant-Governor of the Panjáb.

His Excellency the Commander-in-Chief, G. C. B., G. C. S. I.

The Hon'ble John Strachey.

The Hon'ble Sir Richard Temple, K. C. S. I.

The Hon'ble J. Fitzjames Stephen, Q. C.

The Hon'ble B. H. Ellis.

Major-General the Hon'ble H. W. Norman, C. B.

The Hon'ble F. R. Cockerell.

LOCAL RATES (PANJÁB) BILL.

His Honour the LIEUTENANT-GOVERNOR of the Panjáb presented the Report of the Select Committee on the Bill to provide for the levy of local rates in the Panjáb.

CIVIL COURTS (OUDH) BILL.

The Hon'ble MR. COCKERELL moved for leave to introduce a Bill to consolidate and amend the law relating to the Civil Courts in Oudh. He said that when, a few weeks ago, a Bill was brought forward to provide for the abolition of the Financial Commissionership of Oudh, the hon'ble Member who had charge of the Legislative Department remarked that—

"The law in relation to the Courts in Oudh was altogether in a most unsatisfactory state. There were at least three Acts on the subject, which it was by no means easy to understand in their relation to each other. There was, in particular, a most extraordinary provision by which the Central Provinces Courts Act was somehow mixed up with the Oudh Courts Act, and the result was to produce great confusion. The Bill proposed to be introduced would for a short time make that confusion worse confounded than before, and the notification (which would be issued on the passing of the Bill) would add to that worse-confounded confusion."

Since those remarks were made the notification referred to had been issued, and he (MR. COCKERELL) ventured to say that the result had more than confirmed the hon'ble Member's (Mr. Stephen's) anticipation of its effect, as he would probably have occasion to show at a later stage of this measure.

His hon'ble and learned friend (Mr. Stephen) went on to say, on that occasion, that "he hoped, however, in the course of the summer to put the whole of the law relating to the Courts in Oudh into one Act of an intelligible character."

The Bill which he now asked leave to introduce was designed to carry out the intention thus expressed, and its object was, briefly, an attempt to get rid of that "worse-confounded confusion" above referred to.

The constitution and jurisdiction of the Civil Courts in Oudh were originally fixed by the orders of Government (which, under the Indian Councils' Act of 1861, received the force of law), dated 4th February 1856 and 6th October 1868, respectively.

From the 1st January 1862 the Code of Civil Procedure (Act VIII of 1859) came into force in Oudh, with certain provisos, &c., the first of which affected the jurisdiction of the Civil Courts to a very important extent. In 1865, Act XIV of that year, which purported to provide in an exhaustive manner for the constitution and jurisdiction of the Civil Courts in the Central Provinces, was, under the power conferred by its twenty-fifth section, extended to Oudh.

About the same time Act XVI of 1865 was passed and removed the cognizance of suits relating to land in districts under settlement, from the Civil to the Revenue Courts.

This Act contained also a certain prescription of limitation in regard to some of the suits so removed, and this provision was further enlarged by Act XIII of 1866.

Lastly, there was Act XI of 1871, which was quite recently enacted for the arrangement of matters of jurisdiction rendered necessary by the abolition of the Financial Commissionership of Oudh.

The Bill on which he was now addressing the Council was intended to effect the consolidation of so much of the substance of the enactments and orders having the force of law above enumerated as it was desirable to

retain, and to exhibit the whole law on the subject in a concise and intelligible shape.

But it might be said, perhaps, that Oudh had already got its "Courts Act" through the extension of the Central Provinces Act (XIV of 1865). That Act, however, even in its application to the Courts of those Provinces, was incomplete, inasmuch as it contained no express reservation of the very important power of revision conferred on the Appellate Courts by the proviso which was then in force, subject to which the Civil Procedure Code was extended both to the Central Provinces and Oudh, and had thereby suggested doubts as to the legal effect of some of its clauses in relation to that proviso.

Moreover, in the case of Oudh, the subsequently enacted Act XVI of the same year supplemented the former Act in regard to jurisdiction in the most important class of cases, *i. e.*, suits relating to land, for eleven out of the twelve districts of Oudh were, he believed, still under settlement. Then also there was the Act which was passed in connection with the abolition of the office of Financial Commissioner, with its authorised notification which had, as he thought, dealt with the matters of appellate jurisdiction in an imperfect and unsatisfactory manner.

He (MR. COCKERELL) reserved further comment on the ambiguity which existed in regard to the legal effect of some of the more recent enactments abovementioned in relation to others which preceded them, until the Bill which he desired leave to introduce was before the Council.

He was confident that when its provisions came to be viewed in juxtaposition with the enactments which it was designed to supersede or replace, it would certainly not be regarded as a piece of superfluous legislation.

The Hon'ble MR. STEPHEN said that he wished to say a word or two on this subject as it was especially connected with the Legislative Department. No one could observe the present condition of the law in Northern India without being struck with the necessity which existed for throwing it into some more distinct and systematic form. This was done in Bengal eighty years ago; it was done for the Presidency of Bombay by the Bombay Code in 1827; and it had, he believed, been partially done in Madras. But with regard to the Non-Regulation Provinces, Oudh, the Central Provinces and the Panjáb, it would be difficult to describe the confusion which existed.

This was no matter of surprise when they considered the circumstances under which those large tracts of territories came to form part of the empire, and the suddenness with which the Government was called upon to provide systems of administration for them. But it was no disparagement to the judgment and skill of the framers of those systems, to say that they could not be continued in more settled times without involving inconveniences of the gravest nature. He was led to make these remarks especially because he had put into his hands that morning a volume, for which they had to thank His Honour the Lieutenant-Governor of the Panjáb, by whose directions it had been compiled. It consisted of a collection of the various rules and orders which were considered to have acquired the force of law in the Panjáb under section twenty-five of the Indian Councils' Act, and with which the present administrators of that province were supposed to be acquainted. The rules and orders had been drawn up with admirable clearness, industry and skill by Mr. D. G. Barkley, and the result was a volume of nearly 500 pages. No such collection had hitherto been made, and many of the rules and orders were accordingly inaccessible to every one who had not leisure or inclination to ransack the archives of the Government. It would not surely be creditable to allow laws and orders thus expressed to remain in so inconvenient a shape. Many of them, for instance, were contained in correspondence between the Local Government and the Government of India. The Board of Administration or the Chief Commissioner made a proposal, the Governor General accepted it with a qualification; the proposal thus modified was promulgated in the province, and it had now, in consequence, the force of law. There was another case, of which his hon'ble friend, Sir R. Temple, would no doubt have a very distinct recollection. Owing to the absence of any distinct enactment, it was found necessary in the Panjáb to draw up for the use of officers a manual of law, consisting principally of a statement of the main principles of Hindú and Muhammadan law, together with some portion of the English law, and some general provisions for the administration of the province. This little volume was admirably succinct and intelligible, and had proved, he (Mr. Stephen) was informed, quite invaluable to the officers for whose use it was intended. Part of it related to insolvency, and its provisions in this respect appeared to have worked extremely well. But now the question had arisen whether this little manual had or had not the force of law. It was a curious illustration of the indistinctness which overlay the whole of this subject, that one of the principal reasons alleged for supposing that it had the force of law in the Panjáb was, that it was introduced as a guide to officers in Oudh; so that positively this had been the result; the volume made no pretensions to being anything more than a manual: it had been originally published for the use of officers

with the distinct orders of the Government of India that it was not to have the force of law; yet, because it was introduced as a legal text-book in another province, it was contended that it had acquired the force of law in the province in which it was originally published. Surely this was a state of things that the Government could not with credit allow to continue. He hoped that they might be able in the course of the summer to deal with this matter in the same manner as his hon'ble friend, Mr. Cockerell, was about to deal with the law in Oudh. They did not want to alter the existing state of things, except in such particular points as the provincial authorities considered to require amendment. But they wished to throw the law into a compendious, intelligible and convenient form, and so to render accessible to the officers of Government and the general public those excellent institutions and orders which they owed to the genius and energy of those who reduced those provinces to British rule.

The Motion was put and agreed to.

The Council adjourned to Tuesday, the 20th June 1871.

H. S. CUNNINGHAM,

SIMLA;
The 13th June 1871.

Offg. Secy. to the Council of the Governor General for making Laws and Regulations.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 *&* 25 *Vic., cap.* 67.

The Council met at Simla on Tuesday, the 20th June 1871.

PRESENT:

His Excellency the Viceroy and Governor General of India, K. P., G. M. S. I., *presiding.*

His Honour the Lieutenant-Governor of the Panjáb.

The Hon'ble John Strachey.

The Hon'ble Sir Richard Temple, K. C. S. I.

The Hon'ble J. Fitzjames Stephen, Q. C.

The Hon'ble B. H. Ellis.

Major-General the Hon'ble H. W. Norman, C. B.

The Hon'ble F. R. Cockerell.

LOCAL RATES (PANJÁB) BILL.

His Honour the LIEUTENANT-GOVERNOR of the Panjáb moved that the Report of the Select Committee on the Bill to provide for the levy of local rates in the Panjáb be taken into consideration. He said that he did not intend to go into the specific amendments introduced into the Bill by the Committee, as they were matters of detail. He would only say that he thought that they had very much improved the Bill. The principle of the Bill was simple, and spoke for itself. The objections raised to the Bill were of two kinds,—one class of objections was prompted by the anxiety felt at a Bill, involving so large a demand in excess of the land-tax, being passed with such ease and rapidity, but he was well convinced that the prosperity of the agricultural classes was such that this additional burthen could easily be borne. A second class of objections was suggested by the fear that the new rates imposed by the Bill would act as an encroachment on the land-revenue. This brought up the whole question of the adequacy of the revised assessments. He was not in a position to say whether these revised assessments were adequate or not. The whole matter had been for a long while under discussion. In a letter dated 27th August 1870, his lamented predecessor had issued instructions to the Financial Commissioner

for the purpose of ascertaining whether the system of assessment introduced by Mr. Prinsep involved a loss of revenue. The Financial Commissioner's reply to this enquiry had not yet been received; but it would, His Honour believed, be generally felt to be satisfactory that the matter rested in the hands of so skilled and experienced an officer as Mr. Egerton, who had personal acquaintance as a settlement official with several districts in the Panjáb. Further instructions had been subsequently issued by himself (His Honour) to Mr. Prinsep, and the whole subject was being subjected to a thorough investigation. He had made these remarks in order to show that he considered the anxiety which had been felt and expressed on this subject to be perfectly reasonable, and he entirely concurred in the propriety of a careful and thorough inquiry.

The Hon'ble Mr. Stephen said that he had no intention of raising a discussion on that occasion on a subject of such importance and difficulty as that to which His Honour the Lieutenant-Governor had referred. It would be improper and inconvenient to do so; but he would call attention to a single point. In the speech to which the Council had listened with so much pleasure when the present Bill was introduced, His Honour had said—

"There is a general agreement that the people of the Panjáb, though quite as averse to all taxation as their neighbours, will more readily acquiesce in the imposition of a light rate on the land than in any other demand, for it is in accordance with their remembrance of old times, with their customs and usages, and with the immemorial practice of former rulers."

His Honour went on to say that though the rate was equivalent to six per cent. on the land-revenue, yet that such was the "unprecedented prosperity" of all classes connected with the soil, that he was able confidently to affirm their ability to bear additional taxation; and he referred to the fact that, while population had increased only in the ratio of 11½, cultivation had increased 31½ per cent., and to the greatly enhanced prices obtainable by sale of land, as proofs of the soundness of the view that the agricultural population of the Province could sustain without injury the rate to be imposed by the Bill. Now, upon this, he (Mr. Stephen) had one remark to offer. If there was this great increase of agriculture, if the price of land had so largely increased, if the imposition of rates on land was a popular, customary, and congenial form of taxation, if all these facts were established on an authority so unquestionable as that of His Honour the Lieutenant-Governor, one of two things must result: either the land-revenue ought to have largely increased, or some full explanation of the reason of its not having done so ought to be forthcoming.

The Revenue Reports of the Panjáb supplied materials for a discussion of the question, whether some re-arrangement of judicial and executive duties might

not be possible, so that districts in which settlements had expired might be more speedily re-assessed and that officers might not be harrassed and impeded by a multiplicity of duties. The whole question of the re-distribution of official work in the Panjáb was under discussion, and a report had, MR. STEPHEN understood, been submitted to the Panjáb Government on the subject. He felt no doubt that His Honour would give due weight, in any arrangements that might be determined on, to the desirability of some organization by which new assessments might be carried out with more speed than was at present possible.

The Hon'ble SIR RICHARD TEMPLE said that he entirely concurred in the remarks made by his hon'ble friend, Mr. Stephen, as to the alleged loss of revenue involved from the continuance of old rates under expired settlements. He could only repeat what he had said when the Budget was under discussion, namely, that the undertaking of new settlements was entirely a matter for the discretion of the Local Government, and that, whenever any well-considered scheme for fresh settlements was submitted to the Government of India, it was favourably received and attentively considered.

The Hon'ble MR. STRACHEY wished to offer a few remarks, only for the purpose of explaining the silence which he had observed with reference to the Bill at present under discussion. The present Bill was identical, to a large degree verbally identical, with the Acts which had been passed for Oudh and the North-Western Provinces. Everything that might be said as to the principle of this Bill had been said when those measures were under discussion. Speaking for himself, MR. STRACHEY said that he had felt it unnecessary to repeat what he had said on those occasions, and he only wished that his silence should not be regarded as implying that he in any way underrated the importance of the Bill.

The Motion was put and agreed to.

His Honour the LIEUTENANT-GOVERNOR of the Panjáb then moved that the Bill as amended be passed.

The Motion was put and agreed to.

The Council adjourned to Tuesday, the 27th June 1871.

H. S. CUNNINGHAM,

Offg. Secy. to the Council of the Governor General for making Laws and Regulations.

SIMLA;
The 20th June 1871.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Simla on Tuesday, the 27th June 1871.

PRESENT:

His Excellency the Viceroy and Governor General of India, K. P., G. M. S. I., *presiding.*
His Honour the Lieutenant-Governor of the Panjáb.
His Excellency the Commander-in-Chief, G. C. B., G. C. S. I.
The Hon'ble John Strachey.
The Hon'ble Sir Richard Temple, K. C. S. I.
The Hon'ble J. Fitzjames Stephen, Q. C.
The Hon'ble B. H. Ellis.
Major-General the Hon'ble H. W. Norman, C. B.
The Hon'ble F. R. Cockerell.

PANJÁB REGULATIONS BILL.

The Hon'ble MR. STEPHEN moved for leave to introduce a Bill for declaring what laws are in force in the Panjáb. He said that the object of the Bill was to place the law of the Panjáb on a definite footing, which at present could not be said to be the case. Before 1861, it had been supposed that the Government of India had the same right to make laws for newly conquered provinces as Her Majesty had to make laws for Crown colonies, but doubt had subsequently been thrown on this opinion. In consequence of this doubt the 25th section of the Indian Councils' Act was passed, the effect of which was to confirm every "rule, law or regulation" previously made by the Governor General or the Lieutenant-Governor. The Government had since that Act proceeded on the supposition that it negatived by implication the existence of the power in question. When the Panjáb was annexed, however, the older opinion prevailed, and the Board of Administration to which the Government of the Province was entrusted, was accordingly intrusted by a despatch from the Government of India, with very wide discretionary powers for that purpose. Under those powers, as every one knew, the

province was administered with exemplary vigour and perfect success. The Board of Administration naturally issued a large number of orders for the Government of the Province, and, amongst other things, directed their Officers and were themselves directed, to conform generally to the system of administration which prevailed at the time in the North-Western Provinces. The orders made by the Board, and afterwards by Lord Lawrence, first, as Chief Commissioner and then as Lieutenant-Governor, were in some cases confirmed as they stood; in other cases they were confirmed under qualifications; in others they formed the subject of a correspondence which led to no very definite result, but which was afterwards indirectly referred to, possibly in reference to other Provinces. In other cases Lord Lawrence had occasion to refer to particular regulations in force in the North-West. These references were usually made in very general terms, as was natural and inevitable under the circumstances, and without any thought on the part of Lord Lawrence, or apparently on the part of the Government of India, that these references amounted to legislation. This state of things went on from 1849 to 1861, when the section of the Indian Councils' Act already referred to was passed. Its authors would appear to have known vaguely that a great mass of matter of the nature already described had practically the force of law in the Panjáb, though they did not know specifically what was its nature. Such as it was, however, it was all converted into law by the enactment in question, and to this day it formed an unknown and unexplored region with which it was simply impossible for any one to acquaint himself who had not access to the archives of the Panjáb Government, and the industry and time to master their contents. It was highly undesirable to allow an undefined mass of rules and regulations, about the legal validity of which no one could be sure, to constitute a portion of the law of the province. These rules and regulations owed their existence to the necessity under which the Government of India was placed of providing forthwith for the administration of a newly-conquered province. The measures for this purpose had to be taken at once, and there was no time for simplicity and brevity. Moreover, at the time the general law of India was such, that it was natural for the Government to shrink from extending it to such a province as the Panjáb. Great as were the merits of the Regulations, they were intricate in many parts and difficult to understand. An idea as to the condition of the criminal law might be gained from a perusal of Beaufort's Digest—a work of great merit which showed the existence before the Penal Code of a more intricate and troublesome state of the Criminal Law than existed even in England. The Government did not like to burthen the official staff with so cumbrous and perplexing a system, but having no better system to give them, it was reduced to the necessity of directing

in substance that the Board of Administration should introduce and act upon it as far as they found it suitable. It was usually supposed that the Panjáb had been governed, as the phrase was, patriarchally without any law at all, and at the discretion of Lord Lawrence and his colleagues. It was impossible to make a greater mistake. Lord Lawrence and his colleagues no doubt possessed great powers. It was most fortunate for the Province that they did, and that they used them with corresponding vigour, but it was by no means true that they ruled without law. On the contrary, one of their very earliest measures was to provide themselves with codes of laws which, if not so complete as the Penal Code and the Codes of Procedure, were an immense improvement on the intricate system which prevailed elsewhere in India. The book called the Panjáb Civil Code was prepared as early as 1853, and many rules relating to Civil and Criminal Procedure were introduced somewhat later. So far, indeed, was it from being true that the great authority of Lord Lawrence could be quoted in favour of personal government as against government by law, that it would be much more like the truth to say that Lord Lawrence's administration of the Panjáb afforded the clearest proof that could be given, not only of the necessity of having laws to govern by, but of the superiority of simple and scientific laws over cumbrous ones. His attempts, however, to introduce such a system met with very partial success. No doubt the laws which he introduced were, from a merely legal point of view, defective in many particulars. It would have been a miracle if this had not been the case, but the collection of rules now published showed conclusively that no man could have recognized more explicitly the necessity of introducing into the Panjáb broad, simple, definite and tangible express laws, or could have made greater efforts to obtain them. As was before observed, there was produced in 1853 the first draft of what was subsequently published as the Panjáb Civil Code. This was an attempt, and an exceedingly able attempt, at codification, and anticipated corresponding attempts that had been made in other parts of India. This volume was sanctioned as a text-book, and some portions of it relating to procedure undoubtedly acquired the force of law. But the Government of India had shrunk from the task of laying down a definite code for the Panjáb, and had continued to sanction or discuss the special orders and suggestions made from time to time by the Local Government. The consequence was that things had gone on till they had reached their present strange condition. One instance of the strange way in which laws had come into existence was the revenue system of the province. The original letter of the Government of India to the Board of Administration had directed the four short circulars, which regulated this subject in the North-Western Provinces, to be taken as the guide

on revenue operations. The language of this letter was that of an ordinary despatch; but it had all acquired the force of law. The result was this: the four letters referred to were immediately afterwards embodied in the Directions to Settlement Officers—a beautifully lucid and simple set of instructions. These Directions referred to and relied upon the Regulations, and in this way the Revenue Regulations had come into force in the Panjáb; in fact, the law was introduced by a circular professedly issued under the law. This was one instance of the extraordinary confusion that had been produced; another was the Panjáb Civil Code. When leave to publish it as law was asked, the Government of India had distinctly refused, and directed that it should be published with the authority attaching to the circulars of the Sadr Court. However, its introduction into Oudh was subsequently recommended by the Governor General, and in his recommendation he observed, in passing, that it had been found very useful in the Panjáb. This had, somewhat strangely, in MR. STEPHEN's opinion, been regarded by the Privy Council as an admission on the part of Government that the volume had acquired the force of law in the Panjáb. The question as to how far this was the case had been much debated; and Mr. Barkley, to whose labours they were all much indebted, had, in the course of a very careful investigation, discovered a remark which appeared to be the most distinct recognition of the Panjáb Civil Code on the part of Government that was ever made. But it laboured under the disadvantages of being equivocal, unknown to every one whom it concerned, and of being obviously made without the least intention on the part of the person who made it to legislate. The remark was as follows:—The Lieutenant-Governor, in reviewing the Judicial Commissioner's Administration Report for 1858, observed—'His Honor's assent is fully given to your remarks concerning the necessity and importance of exacting a strict adherence to the letter and spirit of the Panjáb Law and Procedure.'

The Council would probably agree with him in thinking that if a law was to be considered to have come into existence because the Lieutenant-Governor in the course of official correspondence, with no idea of legislation present to his mind, made an incidental remark, which was fished up years afterwards by an industrious official, any one who managed to know what the law was, must be uncommonly fortunate.

It was now proposed that this state of things should cease. Lists of the rules and circulars confirmed by the Indian Councils' Act had been called for by his (MR. STEPHEN's) predecessor from all parts of India concerned, and the result, so far as the Panjáb was concerned, was the present

volume by Mr. Barkley, which contained all which that gentleman, after a very careful enquiry, considered to be law in the Panjáb. The question was now how to deal with it. Mr. Barkley had forwarded a memorandum which he (MR. STEPHEN) was happy to find coincided in all substantial particulars with one which had already been drawn up by himself. There would, he believed, be no difficulty in reducing the whole volume into an Act of perhaps fifty sections; and when this Act was passed, there would be an end of all non-regulation law. Two principles must, however, be kept in view in the framing of any such Act: in the first place, a large portion of the book could not be regarded as law in any sense of the word. It consisted of mere executive orders which Government was quite competent to enforce on its officials without legislation on the subject. As to these orders, not only was it unnecessary that they should have the force of law, but it was highly inconvenient that there should be any doubt whether they had it or not, inasmuch as, if they had it, Government became bound by them and could not vary them at convenience. In the next place, there were a number of topics as to which it was highly desirable that the Local Government should have power to frame rules; such subjects were the existing track law, the slaughter of kine—a subject which, as recent experience unhappily proved, was eminently likely to provoke animosities between Mussulmans and Sikhs, and required, therefore, to be provided for by special rules. Then there were rules as to armed retainers and grazing rights. Now, if the portion of the book which consisted of alterations in the ordinary law were expressly enacted, if the portion which consisted of mere executive orders were put aside, and power were given to the Local Government to issue rules on the subjects just enumerated, he believed that the rules contained in the book might be safely repealed; and the result would be to get rid of that large mass of non-regulation law which, till now, it had been so difficult to ascertain or define. There would also have to be a section to declare what the law was according to which the Courts were to frame their decisions. It would follow the precedents set by the Bengal Regulations, and would refer to the Acts and Regulations in force in the Panjáb, to the Muhammadan and Hindú laws in the cases to which they respectively applied, and where no other law was available, to justice, equity and good conscience, which was in practice a less vague expression than it might appear to be. What would be done, accordingly, would practically amount to this: such portions of the Panjáb Civil Code as were not mere expositions of Muhammadan or Hindú law, would be re-enacted, except when it was considered unnecessary or undesirable. In some instances, the Panjáb Civil Code deviated considerably from the existing law, particularly in the case of pre-emption, the

effect of custom, and insolvency. Upon the subject of the validity of the rules as to insolvency involving the administration of many lákhs of rupees, a difference of opinion existed, MR. STEPHEN understood, between the Judges of the Chief Court. As to this controversy, it appeared that the best thing to do was to leave it undecided as regarded the past, to set up everything which had been done heretofore on the assumption of the Panjáb Civil Code having the force of law, and, for the future, to lay down in clear and intelligible language what the law was which the Courts were bound to administer.

His Honour the LIEUTENANT-GOVERNOR said that he did not intend offering any commentary on the statement that his hon'ble friend had just made, but he could not but express the satisfaction which he felt that this troublesome and intricate matter was now to be dealt with. There could be no doubt that the effect of the Indian Councils' Act had been to make a great many things law that could not be regarded as law without a great deal of inconvenience alike to the Government and the people, and he sincerely rejoiced that the matter had fallen into hands so competent as to deal with it in a wise and statesmanlike manner.

The Motion was put and agreed to.

EUROPEAN VAGRANCY ACT AMENDMENT BILL.

The Hon'ble MR. STEPHEN also moved for leave to introduce a Bill to amend the European Vagrancy Act, 1869. He stated that the Government of Bengal had requested that the European Vagrancy Act should be amended with a view to meeting the case of persons coming from Australia in charge of horses, on engagements which terminated with the voyage, and immediately becoming chargeable as vagrants. In these cases it was impossible to enforce the Act, inasmuch as the persons "to serve whom" the vagrant had come to this country, was the shipper of the horses in Australia. As this was an obvious evasion of the law, it was proposed, by the present Bill, to make the consignee in such cases liable for the expenses of the vagrant.

The Motion was put and agreed to.

The Council adjourned to Tuesday, the 4th July 1871.

H. S. CUNNINGHAM,

Offg. Secy. to the Council of the Governor General for making Laws and Regulations.

SIMLA;
The 27th June 1871.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 *&* 25 *Vic., cap.* 67.

The Council met at Simla on Tuesday, the 4th July 1871.

PRESENT:

His Excellency the Viceroy and Governor General of India, K. P., G. M. S. I., *presiding.*
His Honour the Lieutenant-Governor of the Panjáb.
His Excellency the Commander-in-Chief, G. C. B., G. C. S. I.
The Hon'ble John Strachey.
The Hon'ble Sir Richard Temple, K. C. S. I.
The Hon'ble J. Fitzjames Stephen, Q. C.
The Hon'ble B. H. Ellis.
Major-General the Hon'ble H. W. Norman, C. B.
The Hon'ble F. R. Cockerell.

OUDH REGULATIONS BILL.

The Hon'ble MR. COCKERELL moved for leave to introduce a Bill for declaring what laws are in force in Oudh. He said, this measure was a part of the general scheme described at the last meeting of this Council, for removing all ambiguity as to the legal effect of section twenty-five of the Indian Councils' Act of 1861, in the determination of the law in force in the non-regulation territories.

After the exhaustive remarks of his hon'ble and learned friend (Mr. Stephen) on that occasion, it was hardly necessary for him to enter into any explanation of the need for legislation of this kind.

Although, in the case of Oudh, the subject was not so complicated as it had been shown to be in that of the Panjáb, by reason of the comparatively short period intervening between the annexation, or rather the re-occupation, of Oudh and the date of the Indian Councils' Act, and the consequently small number of orders to be dealt with, yet there also the advantage of a

simple declaration of what must be deemed to constitute the law of the province would, he thought, be generally acknowledged.

The task of sifting the various orders of Government during that period and distinguishing between those properly having the force of law, and those of a purely executive character, was entrusted to a committee of officers of local experience of which the present Judicial Commissioner was the President. The Committee's selection of orders having the force of law was described in their report to have been guided by an opinion of the Advocate General of Bengal expressed in a letter to the Government of India, dated the 13th September 1864, to the following effect:—

"I am clearly of opinion that the rules, laws and regulations referred to in section twenty-five are such as if passed for the regulation provinces since the 22nd April 1834, must have been passed by the Council of the Governor General in its legislative capacity. * *

"I think it is clear that the section must be read as applicable to such rules and regulations as were in the nature of laws affecting rights or imposing punishments, and that any rules or orders which in their nature were only rules for the guidance of a department or for the action of the executive, and which could be, and always have been, issued by the Government in its executive capacity merely, do not come within the section."

The result of the Committee's action on this principle was condensed in a volume of extremely moderate dimensions, as compared with that exhibited to the Council in connection with the similar Bill for the Panjáb. The collection of orders and rules which that volume contained commenced with the Government letter of the 4th February 1856, which laid down in the most comprehensive manner the rules which were to govern every department of the administration of the province at the time of its annexation to British India. Much of those rules had since been superseded by the introduction of the Codes; but some of considerable importance survived.

For example, the reference in somewhat loose and general terms to the Panjáb Civil Code contained in these orders had been held by the Privy Council to render obligatory the adoption of the principles of the Code as the basis of the administration of justice in Oudh. The extent to which these principles were to be applied, as also the degree of permanence intended to be given to their operation, must, he thought, be considered extremely doubtful; for in the letter of Government, to which he had referred, occurred the following passages:—

"But it will not escape your observation that, in the preparation of the rules under notice, much attention has been given to the *lex loci*, and that, specially in matters relating to

inheritance, marriage, divorce and adultery, adoption, wills, legacies and partitions as well as in all commercial transactions, a due regard to local usage has been enjoined. It cannot of course be supposed that the *lex loci* or local custom in provinces differing so widely as the Panjáb and Oudh is in all or even in many respects identical, and it follows that those provisions of the rules, which rest on the *lex loci* in the Panjáb, cannot with any propriety, or without risk of injurious failure, be extended to the province of Oudh.

"While then the Governor General in Council directs your attention to this collection of principles of law as calculated to afford material assistance in the absence of any better or more appropriate treatise, he refrains from requiring the strict observance of them, until it can be ascertained how far they are applicable to the peculiarities of the province and the customs of its people. With this end in view, His Lordship in Council désires me to suggest that all the Commissioners and District Officers and the most experienced of the Assistants, should be required to study the principles of law in their daily application to the business brought before the Civil Courts, and after the lapse of a twelve-month or more, as may be hereafter determined, to report to the Judicial Commissioner the opinions which they may have formed to the applicability of the 'rules of law to the people of Oudh,' and to offer at the same time any remarks and suggestions which may have occurred to them."

Within a little more than a year after the promulgation of these directions, the whole province was reduced to a state of anarchy by the mutiny of 1857, and it appeared from the subsequent letter of Government, dated 6th October 1858, that no such report was made up to that date. From the absence of any reference to the matter in the Committee's report, it was to be inferred that no such investigation of the subject, as was contemplated by the orders of Government, had ever been made up to the present time.

It would clearly be necessary to restrict the operation of the principles contained in the Code to the extent to which they might be found to be consonant to the practice of the Oudh Courts during the last twelve years. This was the only question connected with the framing of the Bill, which he was now asking leave to introduce, which presented any difficulty. The rest was very simple. There were certain rules of procedure in force in the Panjáb which were applied to Oudh by the orders of Government, dated 20th January 1859. There was a circular letter based upon an order of Government in regard to the record of rights of sub-proprietors and middle-men. The rules regarding such rights had been superseded for the most part by the enactment of Act XXVI of 1866. The only object in declaring them to have the force of law, was to give validity to past proceedings. There was also a rule as to the award of a fixed percentage to the finder of hidden treasure, and an order in regard to the employment of juries in the adjudication of civil cases in Lucknow.

Some doubt appeared to exist as to the law of limitation of suits now in force in Oudh, and appended to the Committee's report was a rather long correspondence on the subject ranging over several years and terminating with no satisfactory solution of the question at issue. The importance of that question was, however, very much diminished by the recent enactment of a new limitation law which would come into force in Oudh, as elsewhere, about two years' hence. All that had to be done now, therefore, was to declare what must be considered to have been, and to be, the law on this subject until the new Act came into operation, and to provide for the legal validity of past proceedings so far as they were affected by this question.

It was thought, moreover—but on this subject some doubt was felt—that the system of registration of deeds heretofore in operation in Oudh had not the force of law. Here, again, all future difficulty was avoided by the application of the new Registration Act. It would seem, however, in any case to be immaterial whether the force of law was or was not conceded to the present system of registration in Oudh, for that system not only made no registration obligatory, but apparently did not give any prescribed superiority to the registered over the unregistered document.

One useful result of this scheme for declaring the law in force in our more recently acquired territories would be the effacement of all distinction between the so-called "regulation" and "non-regulation provinces." That distinction was purely nominal, for it would be found that every regulation that was still operative in the older was practically in force in the more recently acquired provinces. Indeed, in one sense the latter would appear to be more overlaid with regulation law than the former, for apart from the fact of the Indian Councils' Act of 1861 having given the force of law to a mass of rules and orders promulgated by the Executive Government, he found from the volumes which described the regulations in force in the Panjáb and Oudh—and he confessed that the discovery was rather mortifying, as he had taken great interest in the work of consolidation and replacement of the regulations by modern enactments—that, for the purposes of these provinces, the 'spirit' of old regulations decently buried and put away in the repealing schedules of the consolidation Acts by which they had been superseded, was held to have survived their corporeal extinction.

The only places to which the term "non-regulation" could now aptly be applied, were those districts and hill tracts along our frontiers which had been expressly placed beyond the pale of the mass of our laws, whose degree of civilization and material progress were better suited to the patriarchal, than the legal, system of administration.

The Hon'ble MR. STEPHEN merely wished to add one word to what had fallen from his hon'ble friend. He entirely concurred in the observations with which he had closed his speech. He would be sorry that it should be supposed that the process at present going on with regard to the law of this country was calculated to render it more intricate or difficult. On the contrary, it was a process of simplification, and its result would be to render the law less technical and obscure. At present, in provinces like Oudh and the Panjáb, there was considerable difficulty in ascertaining what the law was; and in Burma, as had been pointed in a striking pamphlet by Mr. Broughton, the present Administrator General, the condition of things was such that, supposing it to be the interest of a sufficiently skilful lawyer to go into the matter, difficulties might ensue which it would be really extremely difficult to meet except by express legislation. In fact, when rules and orders, such as are called for by the necessities of a newly conquered province, were suddenly invested with the fixity of law, it was certain that, before long, complications and embarrassments would ensue, for which legislation was the only cure. It was on this account that the present measure, and others of a kindred nature, had become a matter of necessity.

The Motion was put and agreed to.

GENERAL REGULATIONS AND ACTS (DEHRÁ DÚN) BILL.

The Hon'ble MR. COCKERELL also presented the Report of the Select Committee on the Bill to bring the Dehrá Dún within the operation of the General Regulations and Acts.

The Council adjourned to Tuesday, the 11th July 1871.

H. S. CUNNINGHAM,

Offg. Secy. to the Council of the Governor General for making Laws and Regulations.

SIMLA;
The 4th July 1871.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Simla on Tuesday, the 11th July 1871.

PRESENT:

His Excellency the Viceroy and Governor General of India, K. P., G. M. S. I., *presiding.*
His Honour the Lieutenant-Governor of the Panjáb
His Excellency the Commander-in-Chief, G. C. B., G. C. S. I.
The Hon'ble John Strachey.
The Hon'ble Sir Richard Temple, K. C. S. I.
The Hon'ble J. Fitzjames Stephen, Q. C.
The Hon'ble B. H. Ellis.
Major-General the Hon'ble H. W. Norman, C. B.
The Hon'ble F. R. Cockerell.
The Hon'ble R. E. Egerton.

The Hon'ble MR. EGERTON took the oath of allegiance, and the oath that he would faithfully discharge the duties of his office.

OATHS AND DECLARATIONS AMENDMENT BILL.

The Hon'ble MR. STEPHEN, in moving for leave to introduce a Bill to amend Act No. V of 1840 (concerning the oaths and declarations of Hindoos and Mahometans), said that the measure had been necessitated by the discovery of one of those small inaccuracies which it was so difficult to escape in legislation, but which were calculated to produce inconvenience. Act V of 1840, by which at present the subject was regulated, was so worded as to be applicable only to the case of witnesses in Court. It was desirable, however, that the substitution of a solemn affirmation for an oath should be lawful in other cases, besides that of witnesses, as, for example, jurors in criminal cases tried by juries, and under the Coroners' Act, 1871. The object of the proposed measure was to extend Act V of 1840 so as to embrace such cases.

The Motion was put and agreed to.

BRÁHMA MARRIAGE BILL.

The Hon'ble MR. STEPHEN, in moving to add the Hon'ble Mr. Strachey to the Select Committee on the Bill to legalize marriages between members of the Bráhma Samája, wished to take the opportunity of making a few observations as to the present position of the Bill. The matter was one of great delicacy and importance, and some explanation appeared desirable as to the course which had been pursued with respect to it. The Bill, which was originally brought forward by his predecessor (Mr. Maine), would have had the effect of establishing a system of civil marriage for all classes in India. This step was justly considered one of extreme importance, and the opinions of all the Local Governments were requested with reference to it. Their opinions were, in many instances, unfavourable to the proposed measure; but it appeared to be generally thought that there would be no objection to a measure which would meet the wants of any individual sect, such as the Bráhma Samáj. A Bill, thus restricted in its scope, was framed accordingly, and published in the Gazette. Thereupon, a deputation had represented that there were great objections to it on the part of many members of the sect. This was entirely new to him (MR. STEPHEN), as he had supposed that the whole of the Bráhma body wished for a Bráhma Bill, if the general Bill could not be had. He had accordingly promised to wait for three months before proceeding with the Bill. Just before the end of the three months there had come another deputation with memorials, the signatures to which were alleged to amount to 2,000, objecting strongly, for reasons set forth in their petition, to the passing of any Bill at all on the subject. Under these circumstances, there seemed but one course open to him, namely, to promise to postpone any further dealings with the Bill till the Government returned to Calcutta, when the representatives of the two opposite factions of the Bráhma sect might be confronted, and the real wishes and objects of each be ascertained. There had been warm discussion in the papers, and the advocates of the measure—progressive Bráhmas as they were called—had complained vehemently at the delay of three years which had occurred in dealing with the measure; their complaints were certainly not altogether unnatural. Many personal imputations had been made, which MR. STEPHEN had been sorry to see, but of the justice of which he individually knew nothing. MR. STEPHEN himself had been blamed for delaying to pass the Bill now in deference to objections which the Committee was supposed to have considered before it submitted its report, which objections were contained in a memorial submitted to them in 1868 by the Adi Bráhma Samáj. The fact was, that the memorial in which those grounds were urged, though mentioned in the

list of papers referred to in the margin of the report, had never come before him, though it had apparently been considered by the Committee as originally constituted and probably formed one at least of the reasons why the Bill had been thrown originally into a general form. The Bill, as brought to his notice, was a general Civil Marriage Bill, and all the papers before him discussed the propriety of a measure of that nature. There was nothing in any of them to show the existence of any difference of opinion between different sections of the Bráhmas as to a Bráhma Marriage Bill. It was quite true that he had signed the report which stated that the Committee had examined a number of papers mentioned in the margin, of which the memorial of the Adi Bráhma Sàmáj was one; but he individually had never seen that paper. The papers which he did see referred to the general measure exclusively. The difficulty was really a very considerable one, owing to the divided condition of the sect, and their opposed wishes on the matter. Any class of persons practically debarred from marriage by their religious belief, certainly seemed to be entitled to legislative relief; but it was one thing to meet the wishes of a small body of persons, and another to make a change which might be regarded in the light of a direct attack on the institutions of the country. When the wishes of the two contending parties among the Bráhmas had been ascertained, an opportunity would be taken of announcing the course which Government intended to pursue with reference to the subject, and of stating the form in which whatever relief it might be considered necessary to give, would be given. Apart, however, from this, the character of the new memorials submitted to him was such that he considered himself bound to get, if possible, to the bottom of the matter, even at the expense of a delay which he regretted, and the case was emphatically one in which it was a less evil to go too slow than to go too fast.

The Motion was put and agreed to.

GENERAL REGULATIONS AND ACTS (DEHRÁ DÚN) BILL.

The Hon'ble Mr. Cockerell moved that the Report of the Select Committee on the Bill to bring the Dehrá Dún within the operation of the General Regulations and Acts be taken into consideration. He said that the Bill, as introduced, was framed on the assumption that, although the result of previous legislation in regard to the Dehrá Dún had been to leave it not subject to the General Regulations and Acts, the District had, in fact, since the passing of Regulation V of 1829, been administered as though such enactments were legally in force there. It had since been ascertained that, even if such was

the case as regards a large majority of the enactments in force in the Regulation Districts, it was not so in regard to all.

For example, up to the occurrence of the case of Dick *v.* Heseltine, during the year 1868, it would appear that Act X of 1859 was held not to be in force in the Dún, and that it was the practice in all matters relating to rent to follow the old 'Summary Suit' Regulations, as they were called, which were superseded, and, in fact, expressly repealed by the said Act.

Why that Act, which was obviously designed to take the place of the 'Summary Suit' Regulations and to be the rent law wherever the latter were in force at the time of its enactment—for it contained no other indication of its intended local extent—was supposed not to be applicable to the Dún, previously to the occurrence of the case to which he had referred; and why it was then suddenly treated as though it were in operation in that tract, he was unable to discover.

In this curiously confused state of things provision had to be made for curing the possible invalidity of two classes of past proceedings on the part of the Courts heretofore exercising jurisdiction in the Dehrá Dún District,—(1*st*), decisions and orders passed on the supposition that the General Regulations and Acts constituted the law of the Dún, and, (2*nd*), decisions and orders governed by the 'Summary Suit' laws which were repealed by Act X of 1859.

We had at the same time to maintain the legality of proceedings which might have been held on the authority of the High Court's ruling in the case of Dick *v.* Heseltine, to the effect that the General Regulations and Acts were not legally in force in the Dehrá Dún.

The first section of the Bill had been re-cast so as to secure those objects. It purported to set up whatever had been done in accordance with any Regulation or Act, repealed or unrepealed, without, at the same time, invalidating what had been done at any time not in conformity to any such enactment.

The only other alterations contained in the amended Bill related to the jurisdiction of the Courts and Chief Revenue Authorities. It had been found necessary to confer jurisdiction within the Dún upon the High Court and Board of Revenue in express terms. The mere extension of the Regulations and Acts would have been insufficient to give that jurisdiction.

The local limits of the High Court's ordinary jurisdiction were identical with those of the former Sadr Adálat. The local jurisdiction of the latter

was derived from Regulation VI of 1831; that of the Board of Revenue from Regulation X of 1831. In both those Regulations the local jurisdiction was defined by reference to another Regulation (I of 1829), and the latter contained no mention of the Dehrá Dún District.

So also as regards the District Court of Saharunpúr. That Court had for many years past exercised, and still continued to exercise, jurisdiction within the Dún without any legal authority. The third section had been added to give retrospective validity to its proceedings, and to reserve a right of appeal within the period allowed by the law of limitation in cases in which the decision or order of the Court of first instance might have been passed before this Act came into operation.

In the settlement of these details, the Select Committee had had the advantage of personal consultation with Mr. Jardine, the Government Advocate of the North-Western Provinces, who, having been professionally engaged in the case out of which this legislation had arisen, was thoroughly conversant with the several points of difficulty presented by the High Court's judgment in that case; and he (MR. COCKERELL) might say that Mr. Jardine fully concurred in the opinion of the Committee that the amended Bill effectually provided for the rectification of all past irregularities.

The Motion was put and agreed to.

The Hon'ble MR. COCKERELL also moved that the words "in the said district" be inserted after the words "proceeding had" in the sixth line of section one.

The Motion was put and agreed to.

The Hon'ble MR. COCKERELL then moved that the Bill as amended be passed.

The Motion was put and agreed to.

The Council adjourned to Tuesday, the 18th July 1871.

H. S. CUNNINGHAM,

Offg. Secy. to the Council of the Governor General for making Laws and Regulations.

SIMLA;
The 11th July 1871.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 *&* 25 *Vic., cap.* 67.

The Council met at Simla on Tuesday, the 18th July 1871.

PRESENT:

His Excellency the Viceroy and Governor General of India, K. P., G. M. S. I., *presiding.*
His Excellency the Commander-in-Chief, G. C. B., G. C. S. I.
The Hon'ble John Strachey.
The Hon'ble Sir Richard Temple, K. C. S. I.
The Hon'ble J. Fitzjames Stephen, Q. C.
The Hon'ble B. H. Ellis.
Major-General the Hon'ble H. W. Norman, C. B.
The Hon'ble F. R. Cockerell.
The Hon'ble R. E. Egerton.

EUROPEAN VAGRANCY ACT AMENDMENT BILL.

The Hon'ble MR. STEPHEN introduced the Bill to amend the European Vagrancy Act, 1869, and moved that it be referred to a Select Committee with instructions to report in three weeks. He said that he had, on moving for leave to introduce the Bill, explained the causes which necessitated the changes now proposed. It was unnecessary for him, on the present occasion, to trouble the Council with any further remarks.

The Hon'ble MR. ELLIS said that the records of some recent proceedings of the Madras Government confirmed the view that some such measure as the one now introduced was urgently wanted. It appeared from those proceedings that the Madras Government had had to deal with some twenty loafers, the majority of whom were of the very class in question, and the Government had been obliged to pay for the carriage of those men back to Australia. The fact that the Bill was as much needed in Madras as at Calcutta might, he thought, be new to the Council.

The Hon'ble MR. COCKERELL said that he trusted that it was not intended that the proposed amendments of the law relating to European vagrancy should come into operation until a sufficient period had elapsed to admit of the consignors of horses, in charge of which the persons to whom this Vagrancy

Bill related were sent to Indian ports, becoming aware of the responsibility which they, through their agents or consignees, would thenceforth incur in sending such persons to India, and regulating their conduct in this matter accordingly.

It might be that his hon'ble and learned friend in charge of the Bill contemplated some provision to that effect; but, as he had not announced it, he (MR. COCKERELL) thought it necessary to draw attention to the point, as any doubt as to the intention of the framer of the Bill in that matter might subject the measure to the imputation of undue harshness.

MR. COCKERELL also wished to enquire whether the Government was in possession of any information as to the antecedents of the persons whose vagrancy had suggested the need for the present Bill. It would be remembered that, by the twenty-fifth section of the Vagrancy Act, provision was made for the imposition on the Master or Captain of any vessel conveying a discharged convict to India, of a sufficiently heavy fine to cover the cost of such person's deportation in the event of his becoming a vagrant.

He believed, he might say, that that provision was introduced into the Act in special reference to the class of persons sent from the Colonies to India in charge of horses. The majority of that class notoriously represented the refuse of the colonial population, men who would not come to India, where there was little or no prospect of their obtaining permanent employment, without any provision for their return journey, if they could obtain an honest livelihood at the Colonies.

It was with the well-ascertained fact before the Council that that class had largely supplied the ranks of vagrancy for which they were legislating, that that provision had been enacted; and what he now desired to learn was whether due care had been taken to give effect to its object, for it seemed to him that, if this Bill was to be passed without further enquiry and another means thereby secured of meeting the difficulty which that provision was chiefly designed to obviate, there was great risk of the penal enactment being wholly overlooked and becoming a dead letter.

The Hon'ble MR. STEPHEN said, in reference to the remarks of his hon'ble friend (Mr. Cockerell), that the Bill had been brought forward at the earnest recommendation of the Bengal Government, with a view to checking the arrangements by which the Australian exporters and the firms employed by them as agents for the sale of their horses, at present contrived to evade the law. Those persons knew perfectly well what they were about, and there was

no particular reason for showing them much indulgence. They had shown some ingenuity in rendering the law inoperative, and the object in view now was to provide that the intention of the Legislature should be carried out. There could be no doubt, that when horses were imported into this country in charge of grooms, and those grooms immediately became vagrants and were thrown on the public for support, the importer of the horse was the proper person to pay. The only way to get at the importer was to make the various persons, whom the owner employed in this country in connection with the sale of the horses, responsible.

With regard to the second point referred to by his hon'ble friend, MR. STEPHEN said that the Bengal Government were fully alive to the evils entailed by the present system, and would be very unlikely not to put section twenty-five of the Act into force whenever opportunity afforded. It might often, however, happen that cases might require to be dealt with, to which the provisions of that section would not apply, and the present Bill was intended to meet those cases.

His Excellency THE PRESIDENT suggested that the Committee should have instructions to report in four weeks.

The Motion was put and agreed to.

CRIMINAL TRIBES BILL.

The Hon'ble MR. STEPHEN also moved that the Hon'ble Mr. Egerton be added to the Select Committee on the Bill for the registration of Criminal Tribes and Eunuchs.

The Motion was put and agreed to.

LOCAL EXTENT ACTS BILL.

The Hon'ble MR. COCKERELL asked leave to postpone his Motion for leave to introduce a Bill for declaring the local extent of the Acts of the Legislative Council of the Governor General.

Leave was granted.

PENSIONS' BILL.

The Hon'ble MR. COCKERELL then moved that the Hon'ble Mr. Egerton be added to the Select Committee on the Bill to consolidate and amend the law relating to Pensions.

The Motion was put and agreed to.

NORTHERN INDIA CANAL AND DRAINAGE BILL.

The Hon'ble MR. STRACHEY moved that His Honour the Lieutenant-Governor of the Panjáb be added to the Select Committee on the Bill to regulate the construction and maintenance of public works for Irrigation, Navigation and Drainage. He said that he was anxious, with His Excellency's permission, to say a few words in explanation of the course which had been pursued with reference to the Bill. Considerable progress had been made by the Select Committee in the consideration of various details of the Bill before the Government left Calcutta. Much, however, still remained for disposal, and it appeared that there were such serious differences of opinion in the Committee as to several points, that Colonel Strachey, who had charge of the Bill, recorded his opinion in a paper which was before the Council, that, so far as the North-Western Provinces were concerned, it was expedient to abandon the proposed legislation altogether and to confine the operation of the present Bill to the Panjáb, where the Irrigation Department was anxiously asking for the measure, and where the Lieutenant-Governor was understood to approve of it and to consider its immediate introduction a matter of importance. It was thought, too, that, if the Bill was restricted to the Panjáb, there would be especial propriety in proceeding with it at Simla, where they had the advantage of the presence of His Honour the Lieutenant-Governor and of a large number of experienced officers. This view was much strengthened when his hon'ble friend, Mr. Egerton, became a member of the Council. Although he (MR. STRACHEY) had at one time been disposed to think the conclusion inevitable, that the only practicable course was to confine the measure to the Panjáb, circumstances now seemed to be different. A letter had been addressed to the Government of India by that of the North-Western Provinces, in which it was stated that His Honour the Lieutenant-Governor "observed, with much regret, that the Bill for regulating Irrigation in Upper India had not yet passed into law;" that serious loss and inconvenience arose from the delay; and that the passing of the Bill with all possible expedition was earnestly recommended. The letter went on to say that till the Bill was passed, the Government had no legal control over beds of rivers, and could not interfere with private dams, however desirable on public grounds such interference might be; and, moreover, that considerable loss of income had resulted from the present defective condition of the law. From this letter MR. STRACHEY inferred that the objections which were supposed to exist to the extension of the Bill to the North-Western Provinces, had no valid grounds. The Bill would, therefore, be now proceeded with in Committee, and as it had at any rate, in regard to most of its principal provisions, the approval of the Lieutenant-Governors of both

Provinces, he trusted that no difficulty in dealing with it need be apprehended. Mr. Egerton had consented to take up the Bill, and his experience and knowledge of the subject would give the Council and the public full assurance that it would be dealt with in a wise and careful manner.

The Motion was put and agreed to.

SUNDRY BILLS.

The Hon'ble Mr. Strachey also moved that the Hon'ble Mr. Egerton be added to the Select Committee on the following Bills:—

To regulate the construction and maintenance of public works for Irrigation, Navigation, and Drainage.

To consolidate and amend the law relating to advances of money by the Government for the improvement of land.

To facilitate the construction of works of public utility from Local and Municipal Funds.

The Motion was put and agreed to.

LOCAL PUBLIC WORKS BILL.

The Hon'ble Mr. Strachey also, with His Excellency's permission, moved that the Hon'ble Mr. Ellis be added to the Select Committee on the Bill to facilitate the construction of works of public utility from Local and Municipal Funds.

The Motion was put and agreed to.

The following Select Committee was named:—

On the Bill to amend the European Vagrancy Act, 1869:—The Hon'ble Messrs. Ellis, Cockerell and Egerton and the Mover.

The Council adjourned to Tuesday, the 25th July 1871.

H. S. CUNNINGHAM,

Offg. Secy. to the Council of the Governor General for making Laws and Regulations.

Simla;
The 18*th July* 1871.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Simla on Tuesday, the 25th July 1871.

PRESENT:

His Excellency the Viceroy and Governor General of India, K. P., G. M. S. I., *presiding.*

His Excellency the Commander-in-Chief, G. C. B., G. C. S. I.

The Hon'ble John Strachey.

The Hon'ble Sir Richard Temple, K. C. S. I.

The Hon'ble J. Fitzjames Stephen, Q. C.

The Hon'ble B. H. Ellis.

Major-General the Hon'ble H. W. Norman, C. B.

The Hon'ble F. R. Cockerell.

The Hon'ble R. E. Egerton.

DUTIABLE GOODS TRANSPORT BILL.

The Hon'ble SIR RICHARD TEMPLE moved for leave to introduce a Bill to regulate the transport by Railways of dutiable goods to places beyond the customs line. He said that one result of the rapid extension of Railways in India had been that large quantities of goods were carried across our frontiers and serious frauds practised in the evasion of the customs duties, not through any fault of the customs officials, but through the fault of consignors or consignees. When goods had to cross a customs line, they could be dealt with in two ways—there must either be a vexatious system of examination at the line itself, or there must be a system by which all despatchers of dutiable goods might be obliged to take out passes on despatching the goods, and by which despatchers of non-dutiable goods might be compelled to declare that they were so. There were of course cases, notably that of salt, in which the carriages conveying it might be easily examined on crossing the customs line; but it appeared, on the whole, that the best plan was to strike at the root of the evil, and provide that all goods should be protected with a pass. In order to give the Council an idea of the intention of the Act, he would ask leave to read the third and fourth sections.

"3. Any person wishing to forward dutiable goods or any package containing a dutiable article by any public conveyance to any place situate across a customs line, may apply to the Head of such customs line or to some officer duly authorized by him in that behalf for a pass.

"The said pass shall be in duplicate, in such form as the Local Government shall, from time to time, direct, and shall be granted by the Head of the said customs line or the officer so authorized as aforesaid, on payment of the duty which according to law would be payable at the customs line in respect of the goods or article for or in respect of which the pass is granted.

"4. Whenever any person not having the customs pass mentioned in section two tenders a package for transport by a public conveyance to a place across a customs line, the booking-officer shall, before booking such package for transport, require such person to sign a declaration that the package contains no dutiable article."

These two sections were the leading provisions of the Bill; all the rest had to deal with penalties and other subsidiary details. He hoped that, after hearing this explanation as to the scope of the Bill, the Council would grant him leave to introduce it.

The Motion was put and agreed to.

OATHS AND DECLARATIONS AMENDMENT BILL.

The Hon'ble MR. STEPHEN introduced the Bill to amend Act No. V of 1840 (concerning the Oaths and Declarations of Hindoos and Mahometans), and moved that it be referred to a Select Committee with instructions to report in six weeks. He said that the necessity for this Bill arose from the fact that the provisions which at present allowed of the substitution of declarations for oaths, extended only to witnesses, and did not embrace the case of jurors in criminal trials or Coroner's inquests, for whom it was desirable to provide. MR. STEPHEN had originally proposed to deal generally with this subject in the Evidence Bill, and several sections had been inserted in that Bill for this purpose. One of those provisions was that if the Court considered that a witness felt any particular form of oath especially binding, that particular form might be employed. The one object of oaths was to increase the likelihood of people telling the truth, and if one form of ceremony was more likely than another to secure this end, it was, MR. STEPHEN thought, only reasonable that this form should be adopted. The essential part of the present Bill was, however, the provision that, in all cases, a solemn declaration might be substituted for an oath. Moreover, the Act which it was proposed to amend, extended only to Hindús and Muhammadans. There was no possible reason for this restriction. Not to speak of Christians, there were so large a number of strange religions with which the Government and Courts of this country came in contact, that it was desirable to make the provision in the widest possible terms.

The Motion was put and agreed to.

CHAUKÍDÁRÍ ACT EXTENSION BILL.

The Hon'ble Mr. Strachey presented the Report of the Select Committee on the Bill to authorise the extension of the Chaukídárí Act to places where there is no jamadár of Police.

LOCAL EXTENT ACTS BILL.

The Hon'ble Mr. Cockerell moved for leave to introduce a Bill for declaring the local extent of certain Acts of the Imperial Legislative Council. He said that the Bill related to (*1st*) Acts of a general character passed by the chief legislature since 1834, which were capable of being applied to the whole of British India, but contained in themselves no express definition of their local extent; and, (*2nd*), Acts which, though for the most part in general operation in the Non-Regulation, in common with the Regulation, Provinces, had never been legally extended to the former.

As the sole object of the Bill was to remove any doubt as to the intended local extent of Acts applicable to all the British territories in India, it would not include any Acts of more limited application, or whose local extent was already otherwise sufficiently defined.

The Bill was designed on the same principle as a Bill for declaring and consolidating the law relating to the local extent of certain Regulations and Acts, which had for some time past been before the Council, and was intended to form a connecting link between that measure and the Bills for declaring the law in force in the Panjáb and elsewhere, for the introduction of which leave was recently obtained.

The general nett result of these and other projected measures of a similar kind for declaring the law in force in the different Non-Regulation Provinces would be to simplify and render easy of accomplishment what had hitherto been an intricate, he might say almost impracticable, task, namely, the ascertainment of the entire operative law on any given subject within any particular portion of this vast empire.

As no alteration of the substance of the existing law was contemplated by this Bill, it would not be open to the objection that it was in any way calculated to limit the power now vested in the Local Councils of affecting, by their

legislation, Acts passed by the chief legislature previous to the coming into operation of the Indian Councils' Act of 1861.

The Hon'ble MR. STEPHEN observed that the intention of the Bill was merely to supply an omission which occurred in many of the older Acts, namely, a distinct declaration of their local extent. The result of this omission was, that there was some doubt in the case of such Acts as to whether they were intended to apply to the whole of British India or not. This doubt it was now proposed to clear up, and the Bill was calculated to facilitate the administration of the law.

The Motion was put and agreed to.

PENSIONS' BILL.

The Hon'ble MR. COCKERELL also presented the Report of the Select Committee on the Bill to consolidate and amend the law relating to Pensions.

The following Select Committee was named :—

On the Bill to amend Act No. V of 1840 (concerning the Oaths and Declarations of Hindoos and Mahometans) :—His Honour the Lieutenant-Governor of the Panjáb, the Hon'ble Messrs. Strachey, Cockerell and Egerton and the Mover.

The Council adjourned to Tuesday, the 1st August 1871.

H. S. CUNNINGHAM,

Offg. Secy. to the Council of the Governor General for making Laws and Regulations.

SIMLA;
The 25th July 1871.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Simla on Tuesday, the 1st August 1871.

PRESENT:

His Excellency the Viceroy and Governor General of India, K. P., G. M. S. I., *presiding.*

His Honour the Lieutenant-Governor of the Panjáb.

His Excellency the Commander-in-Chief, G. C. B., G. C. S. I.

The Hon'ble John Strachey.

The Hon'ble Sir Richard Temple, K. C. S. I.

The Hon'ble J. Fitzjames Stephen, Q. C.

The Hon'ble B. H. Ellis.

Major-General the Hon'ble H. W. Norman, C. B.

His Highness Sarámade Rájáháe Hindústán Ráj Rájendra Srí Mahárájádhiráj Siváí Rám Sing Bahádur, of Jaypúr, G. C. S. I.

The Hon'ble F. R. Cockerell.

The Hon'ble R. E. Egerton.

CHAUKÍDÁRÍ ACT EXTENSION BILL.

THE Hon'ble MR. STRACHEY moved that the Report of the Select Committee on the Bill to authorise the extension of the Chaukídárí Act to places where there is no Jamadár of Police be taken into consideration. He said that when the Bill was first introduced the only object had been to remove certain restrictions with reference to the places where the Chaukídárí Act might be put in force, which had been found inconvenient in practice. The other Local Governments concurred with that of the North-Western Provinces in the desirability of removing these restrictions. When the Bill was ready to be passed, the Government of the North-Western Provinces had represented that there were other points as to which the Bill was susceptible of improvement, and that these might advantageously be dealt with in the present measure. Some correspondence with the North-Western Provinces Government on the subject had ensued, and the Government of India had expressed the opinion that, so far as the further amendments of the law suggested by the North-Western

Provinces Government involved no question of principle, and even of a kind that no other Government could object to, there would probably be no reluctance on the part of this Council to enact them in the Bill; but that, as regarded matters of more importance, it would be necessary to consult the Governments concerned before legislation could proceed farther, and that to do this would necessarily cause considerable delay. The Government of the North-Western Provinces had replied that the necessity for the measure was urgent, and agreed that it would be desirable to leave the larger topics untouched for the present, in order that the Bill might be passed forthwith. Accordingly, the amendments now introduced were so simple that it was unnecessary to detain the Council by any further remarks with reference to them.

The Motion was put and agreed to.

The Hon'ble MR. COCKERELL moved that after section 4 the following section be added :—

"5. In Appendix A, at the end of the first paragraph, the words 'and the aggregate amount assessed shall not exceed the average rate of two annas per mensem for each house, shop or building in the District,' shall be omitted.

"In Appendix C, the words 'the first payment on the tenth day of the month next succeeding the date of this notification, and every subsequent payment on or before the tenth day of each succeeding month,' shall be omitted."

He said that the appendices contained the forms of process to be issued under the Act (XX of 1856), and the proposed omissions were necessary to bring about a correspondence between the forms and the alterations, to be effected by this Bill, in the provisions of that Act to which they had reference.

The Motion was put and agreed to.

The Hon'ble MR. COCKERELL also moved that the following words be added to section 5 :—

"but shall not take effect within the territories subject to the Lieutenant-Governor of Bengal."

He remarked that as all the changes of the law contemplated by this Bill in effect merely gave greater latitude to the Executive and were simply of a permissive character, they would not, in fact, necessitate any variation of the existing procedure where such alteration was deemed inexpedient, and could hardly therefore, on general grounds, be open to objection on the part of the local authorities in any of the territories in which Act XX of 1856 was in operation. But as the last section of the proposed enactment provided for its incorporation with Act XX, the effect of applying this enactment to Bengal would, he (MR. COCKERELL) believed, be to restrict the power of the local Council to repeal or amend Act XX by its fufure legislation.

Now he (MR. COCKERELL) believed that, as a matter of fact, through the operation of two local Acts (III of 1864 and VI of 1868, B. C.), Act XX of 1856 had at the present time a very limited application in Bengal, and he thought that it might very possibly be in contemplation in a future re-arrangement or consolidation of the Police law by the local Council, to repeal that Act entirely.

But even if no such consideration stood in the way of the extension of this Bill to Bengal, he would still hold that such extension was undesirable, inasmuch as the Bill related merely to matters of local detail, such as under a proper distribution of the legislative business of the country should be left to be dealt with exclusively by the local Legislature, wherever such a Legislature existed.

And that the present section 5 be read as section 6.

The Motion was put and agreed to.

The Hon'ble MR. COCKERELL then moved that the present section 5 be read as section 6.

The Motion was put and agreed to.

The Hon'ble MR. STRACHEY then moved that the Bill as amended be passed.

The Motion was put and agreed to.

LAND-REVENUE PROCEDURE (PANJÁB) BILL.

THE Hon'ble MR. STEPHEN moved for leave to introduce a Bill for consolidating and amending the law as to Land-Revenue Procedure in the Panjáb.

He said that the present Bill formed a part of the scheme, which he had recently the honour of laying before the Council, for defining and consolidating the law of the Panjáb. He had had the advantage of consulting His Honour the Lieutenant-Governor and his hon'ble friend Mr. Egerton on the subject, and the opinion arrived at was that it would be more convenient to have two Bills: one to deal with the general law of the Province, and one to deal with land-revenue. The law as to this all-important subject had, from various causes, become extremely obscure and uncertain; and the wonder was, this obscurity and uncertainty had not entailed still more serious inconveniences than had been experienced. MR. STEPHEN might, however, refer to the discussions that took place in the Council some years ago, on the Panjáb Tenancy question, as an instance of the serious evils to which an indistinct, ambiguous and obscure law was calculated to give rise. A large portion of the difficulties in that long and troublesome controversy had arisen from the Settlement officials not clearly understanding the nature of the duties imposed on them by Regulation VII of 1822, and the other enactments which governed land-revenue procedure. There was hardly any subject of graver importance to the State, and there could be no doubt that it was desirable to free it, as far as possible, from all obscurity and confusion, and to give settlement officers the clearest and most unmistakable guide for their proceedings. There was no wish in any way to alter the law; all that was contemplated was to clear away doubts as to what was the law, and to put the existing law into a distinct and convenient form.

The Motion was put and agreed to.

CIVIL COURTS (OUDH) BILL.

THE Hon'ble MR. COCKERELL introduced the Bill to consolidate and amend the law relating to the Civil Courts in Oudh, and moved that it be referred to a Select Committee with instructions to report in six weeks. He said that this Bill was in the main a mere consolidation of the existing law with such alterations, either verbal or of arrangement, as were calculated to express the substance of that law in a more concise and intelligible form.

As regards the constitution of the Civil Courts and their original jurisdiction no change was proposed in the Bill as it now stood, but it might well be the case that, in the opinion of the local authorities, some amendment of the law in these respects, especially as that law was framed with no primary reference to the particular requirements of Oudh, was desirable. If such should be the general opinion, the projected legislation afforded a good opportunity for adopting any approved changes, and any proposals to that effect could be conveniently considered when the Bill was before a Select Committee.

So also in regard to the sections of the Bill relating to the appointment and removal of the presiding officers of the Courts, the oaths to be taken by them, the seals to be used, the places where the Courts were to be held, and the control of the appointment, and matters affecting the discipline, of the ministerial officers of the Courts. These provisions were taken from the Bengal Civil Courts' Act, and were for the most part identical with those of the former Bengal Regulations on the same subjects. As it had been the practice in Oudh to follow those Regulations in matters not expressly provided for by any law directly applied to that Province, the addition of provisions on such subjects, which were not treated of in the Central Provinces and Oudh Courts' Act of 1865, came obviously within the scope of a measure for the consolidation of the existing law.

The adaptation of these provisions to the circumstances of the Oudh Civil Courts in the manner contemplated by the Bill, was to a certain extent speculative, and they might very probably be found to need alteration in detail. They must be understood to be placed in the Bill tentatively, and to be subject to such modifications as might be advised by the local authorities.

The most important part of the Bill was that which dealt with the subject of the appellate jurisdiction of the Civil Courts.

The subject was one of some difficulty, owing to the absence of any settled principle in our previous legislation in reference to it.

In the Non-Regulation territories there were nearly as many differing forms of appellate procedure as there were divisions of such territories subject to a distinct local administration, and this, moreover, notwithstanding that the constitution and status of the Civil Courts up to, and inclusive of, the Court of the Commissioner, were almost precisely the same in each.

In British Burma, on whose Civil Courts the legislature first operated through Act I of 1863, a second appeal on the merits of a case was allowed from a decision on first appeal, when the judgment of the Lower Appellate Court differed from that of the Court of first instance, to the Commissioner, and his decision was absolutely final and not open to revision by any other Court on any question whatever.

In the Panjáb (Act VII of 1868) a second appeal under similar conditions lies to the Commissioner; but, as no finality was accorded to his decision

thereon, a further special appeal against such decision might be brought under the Code of Civil Procedure.

In the Central Provinces, the Jhansi Division and Coorg, there was no second appeal on the merits of a case, but only the special appeal from an order passed in regular or first appeal on the terms of the Code of Civil Procedure.

In Oudh there was no absolute right of second appeal on the merits of any case, but the Appellate Courts exercise an extraordinary power of revision which practically operated as conferring the privilege of second, and even further appeal, to an almost unlimited extent.

This power originated in one of the provisos subject to which the Civil Procedure Code was extended to Oudh. That its supersession was intended by the enactment of Act XIV of 1865, was evident from certain passages in the speech of Mr. Harington at the time of the passing of that Act. He said—

"With respect to the other suggestion, which proposed to continue a practice forming part of what was generally known as the patriarchal system, the Select Committee had observed as follows :—'We do not concur in the suggestion of the Judicial Commissioner that every Appellate Court should be empowered, within a year after any order shall have been passed by a Subordinate Court, to call up the case and revise the order. Where, as is the case in the present Bill, all proper facilities for appeal are allowed, we do not think it expedient to permit an Appellate Court to interfere except on appeal regularly preferred. In the absence of an appeal, it is only fair to presume that all parties are satisfied with the decision or are willing to submit to it, and it would be opposed to every principle of justice to allow any Court, of its own motion, to re-open the matter after an interval during which the decree has probably been executed and the whole litigation settled.'

"It was right he should mention that the Judicial Commissioner of Oudh, equally with the Judicial Commissioner of the Central Provinces, was anxious that the local Appellate Courts should retain the power which they now possessed of interfering with the decisions and orders of the Courts subordinate to them, although there should be no appeal, and although no objection should be taken by any one affected by the decision or order. The provision to this effect, which now formed part of the Code of Civil Procedure as in force in Oudh, was, he believed, introduced on the recommendation of Mr. Campbell, one of the learned Judges of the High Court at Calcutta, at the time he held the office of Judicial Commissioner of Oudh. Having lately had an opportunity of speaking to Mr. Campbell on the subject, he gathered from what fell from him, that he considered that the time had passed when the power in question could be exercised beneficially or for the interests of suitors, and that he was of opinion that the power should be withdrawn. In this opinion he (Mr. Harington) entirely concurred."

The proviso in question being a part of the then existing law should certainly have been repealed contemporaneously with the enactment of Act XIV of 1865. This was not done, and the result was that the power of revision had been considered to be in force and habitually exercised by the Appellate Courts in Oudh up to the present time.

Thus, in the six different territorial divisions of the Non-Regulation Provinces, there were no less than four distinct systems of appellate procedure based on entirely different principles.

The most commendable principle appeared to be that which gave a second appeal on the merits of a case from the conflicting decisions of the Courts of first instance and first appeal. The Bill consequently adopted the Panjáb procedure, but with this important modification, namely, that the second appeal should, in all cases, lie only to the highest Court of appeal in the Province.

If the right of second appeal on the facts was to be of any practical value, the appeal must lie to such a tribunal as would ensure the attainment of the best decision of the question in litigation as the circumstances of the Province would admit of. Even in the Regulation territories the main defect of our judicial system had always been held to be the weakness of the intermediate Courts of appeal; it being said that there was always a risk of the appeal from the decision of a well-instructed Court of first instance, which had had the advantage of hearing the evidence at first hand and marking the manner in which it was given, coming before a Court of at least no superior judicial capacity, and which had had no such advantage. If there were reasonable grounds for such an apprehension in regard to the intermediate Appellate Courts of the Regulation Provinces, where the Judges had no dual occupation, and, whatever may have been their antecedent deficiency of training for the bench, were set apart for exclusive employment in judicial business, they must exist in a greater degree in regard to the Court of the Commissioner in the Non-Regulation Provinces, whose attention was partially absorbed by his executive functions, and who might have been selected for the post which he filled with reference to his special aptitude for the discharge of such functions rather than for any particular judicial capacity.

For these reasons it was proposed that both the second appeal on the facts as well as the special appeal under the Civil Procedure Code should, in *all cases*, lie to the Judicial Commissioner, and that the latter be substituted for the

abolished Financial Commissioner as the Court of final appeal in suits relating to land in Districts under settlement, the proviso under which the Appellate Courts obtained their extraordinary power of revision being expressly repealed.

A rather important consideration arose upon this proposition, namely, whether the Bill would not have the effect of throwing upon the Judicial Commissioner a greater amount of appellate business than he could reasonably be expected to dispose of compatibly with the due discharge of his other duties. The special appeals in suits relating to land being, under the policy of Government, exempted at present from liability to any Court fees, were already very numerous [indeed, he was informed that the present annual institution of appeals in Oudh averaged about two thousand, whilst the total number of such appeals which came yearly before the High Court of Calcutta, which had a working daily average of about three or four benches of Judges for their disposal, was scarcely above three thousand], and it was probable that the new procedure of the Bill would largely increase the present number.

This exemption from the payment of Court fees, and the excess in the number of appeals which it promoted, were doubtless but of temporary operation, and the period of such operation would soon expire as the settlements of land-revenue in Oudh were drawing to a close.

But, even if the excessive increase of business likely to devolve upon the highest Court of appeal through the operation of this Bill should not be of permanent duration, yet, on general grounds, it would seem expedient to devise some means of strengthening that Court partly by associating some other officer with the Judicial Commissioner for the trial of appeals, and partly by some provision for the reference of cases presenting questions of unusual difficulty to the High Court of the North-Western Provinces. In short, what appeared to be wanted was the restoration, in some form or other, of the substance of the procedure prescribed by the recently repealed Act XXXVII of 1867.

If this suggestion should commend itself to the local authorities, and he (Mr. Cockerell) had reason to believe that it accorded with the views of the present Chief Commissioner, there would be no difficulty in shaping the Bill so as to effect that object when it came before a Select Committee.

MR. COCKERELL had only to add that, in naming six weeks as the period within which this Bill, if committed, should be returnable to the Council, he had regard to the limited area within which the Bill was intended to operate, and the inconsiderable number of persons consequently to be consulted as to its provisions. But it should be clearly understood that there was no desire to hurry through the Council a measure involving such important considerations, and that the fullest opportunity would be afforded for eliciting the opinion of all persons most competent to advise on the subject of the proposed alterations of the law.

The Hon'ble MR. STEPHEN observed that the Council was at present in a particularly favorable position for legislating for Oudh, as it numbered among its Members two Ex-Commissioners of that Province. With reference to his hon'ble friend's remarks on the appellate system of India, the principle of such a system in his (Mr. STEPHEN'S) opinion was, that the existence of a right of appeal exercised a constant influence in keeping judicial officers up to the mark. This check was weakened rather than strengthened by multiplying appeals. An officer, disposed to be negligent, would, no doubt, be quickened in the performance of his duties by the consciousness that his judgment would be reviewed by his immediate superior; but the effect of this was lessened by the reflection that this reviewing authority would, in its turn, be reviewed by a Superior Court, and that the case might ultimately find its way to the Privy Council, and not be disposed of for years. So, again, as to special appeals: they were, no doubt, a natural arrangement at the time when the law had to be administered by officers comparatively uninstructed in its details; but as matters now stood, they were a premium to lawyers to pick every possible hole in a judgment, and there was great doubt whether, on the whole, they conduced to substantial justice; on the other hand, there was no doubt that they conduced largely to delay, chicanery and waste of time. It would, in Mr. STEPHEN'S opinion, be far better to let the Courts state points of law, wherever a reasonable doubt existed, than to put it in the power of the parties to raise any question they pleased, and so indefinitely prolong litigation.

MR. STEPHEN made these remarks not with the least intention of throwing doubt on the propriety of his hon'ble friend's proposals, but merely for the purpose of reminding the Council that the present system of appeals in the Courts of this country was open to serious objection, and would some day or other require to be reformed. He did not, however, think that this was

any reason for opposing the present measure or for putting Oudh on a different footing from other parts of the Empire.

The Motion was put and agreed to.

The following Select Committee was named :—

On the Bill to consolidate and amend the law relating to the Civil Courts in Oudh :—His Honour the Lieutenant-Governor of Panjáb, the Hon'ble Messrs. Strachey, Stephen and Egerton and the Mover.

The Council adjourned to Tuesday, the 8th August 1871.

H. S. CUNNINGHAM,
Offg. Secy. to the Council of the Governor General for making Laws and Regulations.

SIMLA;
The 1st August 1871.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Simla on Tuesday, the 8th August 1871.

PRESENT:

His Excellency the Viceroy and Governor General of India, K. P., G. M. S. I., *presiding.*

His Excellency the Commander-in-Chief, G. C. B., G. C. S. I.

The Hon'ble John Strachey.

The Hon'ble Sir Richard Temple, K. C. S. I.

The Hon'ble J. Fitzjames Stephen, Q. C.

The Hon'ble B. H. Ellis.

Major-General the Hon'ble H. W. Norman, C. B.

The Hon'ble F. R. Cockerell.

The Hon'ble R. E. Egerton.

PENSIONS' BILL.

THE Hon'ble MR. COCKERELL moved that the Report of the Select Committee on the Bill to consolidate and amend the law relating to Pensions be taken into consideration. He said that the only amendments of any importance proposed by the Select Committee were in regard to (1st) the reference of claims to pensions or grants of money or land-revenue under certain circumstances to the Civil Courts for adjudication, and (2nd) the extension of the protection from sequestration now afforded to pensions, to charitable or compassionate allowances.

The fundamental principle of the Bill, which in this respect was, as regards its application to the whole of British India, with the exception of a portion of the Bombay Presidency, a mere recapitulation of the existing law, was that as the bestowal of pensions, money-grants or assignments of land-revenue was a pure act of grace on the part of the ruling power, so the latter justly and necessarily reserved to itself absolute freedom of action in regard to the disposal of all claims respecting such allowances; hence no power could be left to the Civil Courts to act adversely to the interests or policy of the Government in such matters.

But it might frequently happen that, when the liability of the Government to pay any pension or grant of money was admitted, and there were no political considerations affecting the determination of the order of succession to such pensions

or grant, the Government might wish to leave the question of succession or participation to be determined in accorda nce with the ordinary law of inheritance as administered by the Courts.

To meet such cases, a new sectio n (six) had been introduced, the legal effect of which was that the Civil Courts must accept and exercise jurisdiction in regard to cases of this kind referred to them by co mpetent authority, but could make no decree by which the admitted liability of G overnment could in any way be increased or adversely affected. The decree of th e Court would be binding in such cases as between A and B, the rival claim ants, but could not operate as regards the Government, except with the consent of the latter.

The expediency of extending th e protection accorded to pensions to compassionate allowances was too obvious to admit of question. The considerations which led to the exemption from a ttachment by civil process of the pensions of discharged public servants applied with equal force to the case of pensions or portions of pensions continued to the family o f a deceased pensioner, or a compassionate allowance granted to the family of a p erson who had died in the public service.

The only other alteration which c alled for any special remark was the provision contained in section nine of the amen ded Bill. It was intended to meet the probably numerous cases of grantees wh o under the conditions of their grants were left to recover the revenue assigned to them from the occupiers of the land, of which the revenue was so assigned, in the sa me way as the proprietor of land recovered the rent of such land from his tenant s.

It was necessary to declare th at the want of power in the Civil Courts to entertain suits relating to an assignme nt of land-revenue, and the provision of the Bill in regard to the mode of paymen t of grants, should not apply to such cases. It might be said, indeed in one quarte r at least it had been implied, that the subject of this Bill was one which might reas onably have been left to be dealt with by local legislation as regards the provinces in which there were Local Councils.

The extension of the existing law to that part of the Bombay Presidency in which it was not at present in force, which was the prominent feature of the Bill, could not have been effected by the lo cal legislature, inasmuch as it involved an interference with the jurisdiction of th e High Court.

As the action of this Council was required to provide for that necessary extension, the opportunity had been tak en for a general consolidation of the very numerous and diffuse enactments on the subject of pensions, and a comparison of

the enacting matter of the Bill with its repealing schedule would show what a very considerable saving of statutory substance had been accomplished by that operation.

Nor was the course which had been adopted in regard to this measure in any way calculated to prejudice the public convenience, for the practical effect of sections five, eight and fourteen of the amended Bill was to transfer future legislation on all matters of detail connected with the subject of pensionary allowances from the ordinary legislature to the local executive, and he apprehended that this was by far the most convenient and satisfactory manner of dealing with such matters.

The Motion was put and agreed to.

The Hon'ble MR. ELLIS moved that, in section eleven, instead of the words "No pension granted by Government in consideration of past services," the words "No pension granted or continued by Government on political considerations or on account of past services," be inserted. He said that the original intention had been to extend the provisions of section eleven to this class of pensions, but that it had unintentionally been overlooked in Committee. He believed that the policy of the Government, with reference to this subject, might be seriously interfered with, if pensions granted on political grounds were not exempted from the ordinary process of the Courts. He also proposed the introduction of the words "or continued," so as to provide for cases in which pensions had been "continued," though not in the first instance granted by Government.

The Motion was put and agreed to.

The Hon'ble MR. COCKERELL then moved that the Bill as amended be passed.

The Motion was put and agreed to.

OATHS AND DECLARATIONS AMENDMENT BILL.

The Hon'ble MR. STEPHEN presented the Report of the Select Committee on the Bill to amend Act No. V of 1840 (concerning the Oaths and Declarations of Hindoos and Mahometans).

The Council adjourned to Tuesday, the 15th August 1871.

SIMLA;
The 8th August 1871.

H. S. CUNNINGHAM,
Offg. Secy. to the Council of the Govr. Genl. for making Laws and Regulations.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 *&* 25 *Vic., cap.* 67.

The Council met at Simla on Tuesday, the 15th August 1871.

PRESENT:

His Excellency the Viceroy and Governor General of India, K. P., G. M. S. I., *presiding.*

The Hon'ble John Strachey.

The Hon'ble Sir Richard Temple, K. C. S. I.

The Hon'ble J. Fitzjames Stephen, Q. C.

The Hon'ble B. H. Ellis.

Major-General the Hon'ble H. W. Norman, C. B.

The Hon'ble F. R. Cockerell.

The Hon'ble R. E. Egerton.

His Highness Sarámade Rájáhée Hindústán Ráj Rájendra Srí Mahárájá Dhiráj Siváí Rám Sing Bahádur, of Jaypúr, G. C. S. I.

His Highness the Mahárájá of Jaypúr made a solemn declaration of allegiance to Her Majesty, and that he would faithfully fulfil the duties of his office.

INDIAN TARIFF ACT (AMENDMENT) BILL.

The Hon'ble SIR RICHARD TEMPLE, in moving for leave to introduce a Bill to amend the Schedule of the Indian Tariff Act, 1871, said that the necessity for legislation had arisen in the following manner: The Indian Tariff Act, 1871, imposed an *ad valorem* duty of one per cent. on the export of indigo. Their French neighbours at Pondicherry had evaded this tax by exporting indigo leaf (on which no duty at present was levied) to Pondicherry, where, on reaching the factories, it was manufactured into indigo; and since the French Government levied no duty on exported indigo, the French manufacturer obtained a slight advantage over those who exported from British territory. This state of things naturally gave rise to complaints, and the present Bill was intended to remedy an admitted hardship, by imposing a duty on indigo leaf, and thus placing the French and English manufacturer on a footing of equality.

The Motion was put and agreed to.

INDIAN WEIGHTS AND MEASURES OF CAPACITY BILL.

The Hon'ble MR. STEPHEN moved for leave to introduce a Bill to regulate the Weights and Measures of capacity of British India. He said that the Bill had been placed in his hands, not because he was in any way especially familiar with the subject, but under somewhat peculiar circumstances, of which it was right that he should inform the Council. His Excellency the President having signified to the Council the disallowance of the Weights and Measures Act passed last year, it was right that the grounds of that disallowance should be publicly known, and that it should be understood that there was not any difference of opinion as regarded matters of principle between the Secretary of State and those with whom this measure had originated. All parties were agreed as to the great desirability of establishing an uniform standard of weights, and it was unnecessary to repeat the instances brought forward by Colonel Strachey last year to show the confusion and inconvenience to which the existing diversity of standards in various parts of the country at present gave rise. The Act, however, had gone somewhat beyond the original scheme in dealing with measures of length, and the Secretary of State had, in the exercise of that abundant caution which such a matter demanded, shrunk from sanctioning a measure which might seem in any manner to interfere with the existing customs and tastes of the people. If any such result was likely to ensue, the Government of India entirely concurred that it was too high a price to pay for any conveniences and advantages which the Act might have secured. The difference between the Government of India and the Secretary of State was, accordingly, one of degree rather than of principle; and, since it had been resolved to postpone the passing of the measure in its entirety, the course proposed was to re-enact those parts of the Act as to which no difference of opinion existed. This would precisely carry out the views of the Secretary of State, those provisions which he considered undesirable being omitted. This was the object of the present Bill. It was believed that the introduction of a recognized standard of weights and measures would offend no existing custom, and would gradually make its way among the people as the advantages of uniformity on such a subject came to be generally appreciated. The Railway and other great Companies had already adopted an uniform standard, and, he believed, that, in no long time, the people at large would spontaneously follow their example. On these grounds he hoped that leave would be given.

His Excellency THE PRESIDENT said—"As the Indian Weights and Measures Act of 1870 has been disallowed by Her Majesty, and will, from the date of this my signification of that disallowance, cease to have any legal

validity, I wish to say a few words as to the position of the Government of India with reference to it, and to the measure by which it is contemplated to replace it. It never was the intention of the Government to force any measure on the public against the wishes and tastes of the community at large. Those who proposed the original measure did not intend that such of its provisions as were other than permissive should come into operation till it appeared that the public mind was ready to accept them. I am well aware that the forcible introduction of a measure of this sort, before the public was alive to its advantages, might be calculated only to defeat the hopes and intentions of those who advocate it. The Government of India has never had any intention of attempting any such forcible introduction. I trust, however, that the present disallowance of the measure will not have the effect of indefinitely postponing what I believe to be a most useful reform; but that the Bill, for the introduction of which leave is now asked, will practically lay the foundations of a system of uniform weights and measures throughout the empire. The Railway Companies have shown that they are anxious to second the Government in the attempt to introduce the new system, and I hope that the present Bill will be found to arm Companies, Municipalities and other bodies with adequate powers to facilitate the gradual and permissive adoption of a system which I believe to be likely, at no distant time, to conduce to the public convenience."

The Motion was put and agreed to.

CRIMINAL TRIBES BILL.

The Hon'ble MR. STEPHEN also presented the Report of the Select Committee on the Bill for the Registration of Criminal Tribes and Eunuchs.

The Council adjourned to Tuesday, the 29th August 1871.

H. S. CUNNINGHAM,

Offg. Secy. to the Council of the Governor General for making Laws and Regulations.

SIMLA;
The 15*th August* 1871.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Simla on Tuesday, the 29th August 1871.

PRESENT:

His Excellency the Viceroy and Governor General of India, K. P., G. M. S. I., *presiding.*
His Excellency the Commander-in-Chief, G. C. B., G. C. S. I.
The Hon'ble John Strachey.
The Hon'ble Sir Richard Temple, K. C. S. I.
The Hon'ble J. Fitzjames Stephen, Q. C.
The Hon'ble B. H. Ellis.
Major-General the Hon'ble H. W. Norman, C. B.
The Hon'ble F. R. Cockerell.
The Hon'ble R. E. Egerton.

CRIMINAL TRIBES BILL.

The Hon'ble MR. STEPHEN asked leave to postpone his motion that the Report of the Select Committee on the Bill for the Registration of Criminal Tribes and Eunuchs be taken into consideration.

Leave was granted.

LOCAL PUBLIC WORKS LOAN BILL.

The Hon'ble MR. STRACHEY presented the Report of the Select Committee on the Bill to facilitate the construction of works of public utility from Local and Municipal Funds.

RAILWAY BILL.

The Hon'ble MR. COCKERELL presented the Report of the Select Committee on the Bill to amend the Railway Act.

LOCAL EXTENT ACTS BILL.

The Hon'ble MR. COCKERELL also introduced the Bill for declaring the local extent of certain Acts passed by the Imperial Legislative Council, and moved that it be referred to a Select Committee with instructions to report in six weeks. He said that, of the ninety-three Acts specified in the schedule, eighty-eight were divisible into the two classes which he described when asking for leave to introduce this Bill,—(1st) Acts which having been enacted previous to 1856—the last year in which any considerable addition was made to the British dominions in India—were never formally extended to the whole of the territories which now constitute 'British India'; and, (2nd), Acts which though intended for general application had no express self-contained definition of their local extent.

In the case of the first of these classes, the Bill was designed to operate as an extending, and in regard to the second, as a mere declaratory, Act. In neither case did it vary the operation of any Act within those territories which had a separate local legislature.

The Bill was not, therefore, as he pointed out on a former occasion, impugnable, on the ground that it would have the effect of narrowing the power now possessed by the several local Councils, of amending or repealing enactments of a date previous to the passing of the Indian Councils' Act of 1861.

The remaining five Acts contained in the schedule constituted the two great Procedure Codes—Civil and Criminal. When enacted, they were made extendible, but were not then extended, to the whole of British India. They have since by various executive orders been gradually extended to all parts of the empire, except the territories referred to in the second section of the Bill. They have consequently been included in the schedule for the purpose of consolidation.

It would be a question for the consideration of the Select Committee to which this Bill might be referred, whether its object might not be attained without the specification of the several Acts contained in the schedule. On the one hand, such detailed specification had its obvious disadvantages, whilst, on the other, by any mere general reference to the Acts to which the Bill related, we ran the risk of failing to get rid of that ambiguity in regard to the intended operation of particular Acts, which this Bill was expressly designed to remove.

The Hon'ble MR. STEPHEN said that the present Bill formed part of the general scheme of simplification of the law with which the Council had been of late so much occupied. No one without actual experience would believe how difficult a task at present it was to ascertain what the law in different parts of the country actually was. First, there was the distinction of Regulation and Non-Regulation Provinces, then there were Non-Regulation Districts in Regulation Provinces; then, again, there were Acts which were of limited application, and there were four distinct legislatures besides the Imperial Parliament, all of which were constantly adding to the existing body of law. It was, therefore, of the utmost importance that the area to which these various enactments were applicable, should be precisely ascertained. Nothing would be added to the bulk of the existing law; the only object was to let it be clearly known what laws were in force in each part of India. When his hon'ble friend, Mr. Cockerell, to whose labours in this difficult and intricate matter the Council and the public were much indebted, had succeeded in passing the present and one other analogous measure which was now under consideration in Committee, the whole subject would be reduced to absolute simplicity. The various districts which at different times were specially legislated for, or specially excepted, would all be clearly ascertained, and great assistance would, he (MR. STEPHEN) hoped, be given to the regular and speedy administration of the law.

The Motion was put and agreed to.

CIVIL COURTS (OUDH) BILL.

The Hon'ble MR. COCKERELL also moved that the Hon'ble Mr. Ellis be added to the Select Committee on the Bill to consolidate and amend the law relating to the Civil Courts in Oudh.

The Motion was put and agreed to.

The following Select Committee was named:

On the Bill for declaring the local extent of certain Acts passed by the Imperial Legislative Council—The Hon'ble Messrs. Stephen and Egerton and the Mover.

The Council adjourned to Tuesday, the 5th September 1871.

H. S. CUNNINGHAM,

Offg. Secy. to the Council of the Governor General for making Laws and Regulations.

SIMLA;
The 29th August 1871.

Abstract of the Proceedings of the Council of the Governor General of India assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Simla on Tuesday, the 5th September 1871.

PRESENT:

His Excellency the Viceroy and Governor General of India, K. P. G. M. S. I., *presiding*.
His Honour the Lieutenant-Governor of the Panjáb.
His Excellency the Commander-in-Chief, G. C. B., G. C. S. I.
The Hon'ble John Strachey.
The Hon'ble Sir Richard Temple, K. C. S. I.
The Hon'ble J. Fitzjames Stephen, Q. C.
The Hon'ble B. H. Ellis.
Major-General the Hon'ble H. W. Norman, C. B.
The Hon'ble F. R. Cockerell.
The Hon'ble R. E. Egerton.

LOCAL PUBLIC WORKS LOAN BILL.

The Hon'ble MR. STRACHEY moved that the report of the Select Committee on the Bill to facilitate the construction of works of public utility from Local and Municipal Funds be taken into consideration. He said that though the form and arrangement of sections had undergone considerable changes in Committee, the Bill itself remained, in all its essential particulars, unaltered. There could be no difference of opinion as to the duty of the State to encourage works of utility, sanitation schemes, water-supply, and so forth. For such works loans were often urgently required. At present, however, no municipal bodies throughout the empire, except those on which borrowing powers were conferred by some special Act, had a legal power to borrow, so that, though these bodies had ample means of giving excellent security, they were practically debarred from doing so, and such loans as they did effect were contracted without the authority of law, without any legal security, and consequently on disadvantageous terms. It was undoubtedly desirable that, as a general rule, these bodies should borrow from Government, and not elsewhere; Government being able to lend on cheaper terms than the ordinary capitalist. No risk of public loss would be

incurred, as the security would be in every instance thoroughly good. The measure would, he believed, prove of great value in increasing the efficiency of municipalities and promotion of works of public interest.

The Hon'ble SIR R. TEMPLE wished to state that the present measure had the entire concurrence and support of the Financial Department, and that the cause of municipal improvement in India had been promoted by the efforts of his Hon'ble Colleague Mr. John Strachey and also of Colonel Richard Strachey recently a Member of this Legislative Council. It was clear that there must be public improvements, equally clear that these could not be effected without loans, and that it was desirable accordingly to invest public bodies with borrowing powers. The old arrangement prevented municipalities from borrowing, except at various rates, in the open market. The present Bill would give them the advantage of having the State for a creditor and effecting loans at four and a half to five per cent. rates which, as the Council was aware, could not be elsewhere obtained. The Government of India was always happy to make such advances. The cash balances were high enough to make it easy and safe to do so. No risk of loss to the public would be incurred, but great relief would be afforded to municipalities. It was intended to lend at such rates as would cover any expense incurred by Government in the transaction, and would, in some instances, make a sinking fund possible. He considered that the measure would prove a most useful one, as affording to corporations a comparatively cheap and easy resource for effecting improvements, and this too without imposing even a fraction of burden on the general tax-payer.

The Hon'ble MR. COCKERELL said that with the exception of the municipal corporations of the Presidency Towns, which were specially exempted from the operation of the prohibitory provisions of this Bill, the only municipalities which had borrowing powers expressly conferred by law were those established under the Bengal Local Act III of 1864. As regards these latter municipal bodies, the effect of the prohibitory provisions of the Bill was to suspend, for such time as the Government was prepared to make advances to them, the power of issuing debentures which they possessed under the existing law.

He had commented on this matter, as he did not think it was adverted to by his hon'ble friend the mover of the Bill, and silence on the subject might have given rise to the supposition that the general application of the provisions referred to was inadvertent, or that its full effect had not been considered.

As a member of the Select Committee, he (MR. COCKERELL) advocated the course which had been taken in regard to the Bengal municipalities. He believed that their power of raising money on the issue of debentures had been rarely, if at all, exercised, and he felt sure that the bringing of them within the restrictions as well as the privileges of the present measure, was for their real advantage. As had been so forcibly remarked by both the previous speakers, the Government, from its vastly superior credit, was in a position at all times to lend money on far more advantageous terms than those on which it could be obtained from other sources.

The Motion was put and agreed to.

The Hon'ble MR. STRACHEY then moved that the Bill as amended be passed.

The Motion was put and agreed to.

LAND IMPROVEMENT BILL.

The Hon'ble MR. STRACHEY presented the Report of the Select Committee on the Bill to consolidate and amend the law relating to advances of money by the Government for the improvement of land.

LAND-REVENUE PROCEDURE (PANJÁB) BILL.

THE Hon'ble MR. STEPHEN in introducing the Bill for consolidating and amending the law as to land-revenue procedure in the Panjáb, and moving that it be referred to a Select Committee, with instructions to report in four weeks, said :

"MY LORD,—I fear that it will be necessary for me to detain your Lordship and the Council for some considerable time in introducing this Bill. If this requires any apology, I must find it in the extreme importance of the subject. In a certain sense, the measure may be regarded as one of the most important which could come under the notice of the Legislature. Finance is the mainspring of the Government of India, and the land-revenue is the mainspring of Indian finance. I need not enlarge upon this; but I may observe that important as the subject is, it appears not to have received that degree of attention from the persons charged with Indian legislation, which its importance requires.

"To make this plain, it will be necessary to say a few words upon the history of Indian legislation on the subject of the assessment and collection of land-revenue.

"The earliest legislation upon the subject dates from the year 1793, in which, as your Lordship and the Council are aware, the famous permanent settlement of Lord Cornwallis became law. It is not my intention to say anything on the present occasion upon the effect or the policy of the permanent settlement. It was my duty, when at Allahabad, some months ago, to address your Lordship at considerable length on that subject. In connection with the present question, I may, however, observe that it is impossible to read the papers connected with the permanent settlement without perceiving that its provisions were, to a very considerable extent, affected by the conscious ignorance under which its authors laboured as to the nature of the interests in the land which existed around them. They were aware of the fact that interests of a very complicated and peculiar character, unlike anything known to European experience, affected the land of Bengal; and I feel little doubt that one of the objects which they had in view was to effect an arrangement which might be regarded as cutting the knot in which these interests were entangled. Whether, in point of fact, the knot was actually cut, or whether the difficulties were really avoided, is a question on which I shall, on the present occasion, express no opinion. I mention the fact, merely in illustration of the character of the legislation in question, and to explain its effect on the subsequent course of legislation. From the year 1793 to the year 1822, little or no legislation to which I need direct the attention of your Lordship and the Council, took place upon this subject. The permanent settlement was introduced into the Province of Benares, but not into the other Ceded and Conquered Provinces which were afterwards consolidated into what is known to us by the name of the North-Western Provinces.

"In these territories, summary settlements of short duration appear to have been made for a considerable number of years. It was at last determined to reduce the law upon the subject to a regular system. When this determination was taken, the knowledge which Indian Statesmen possessed of the constitution of Hindú society, and in particular of the constitution of village communities, had been very greatly increased. It was under the influence of this knowledge that the famous Regulation No. VII of 1822 became law. It was the work of Mr. Holt Mackenzie, and subject to certain amendments introduced into it by Regulation IX of 1833, it became, and it still is, the foundation of the whole of the law of Northern India

upon the subject of land-revenue. It may be said to be based upon a recognition of the fact of the existence of village communities.

"In order to explain what follows, it is necessary for me to make a few remarks upon this famous law. I have read it with attention several times, and it has always reminded me of a remark, which was once made by a judge of great eminence as to a certain paper produced before him, 'Take it away, Sir, and make it much shorter and much fuller.'

"The Regulation begins with a long preamble which embodies what we should now call a Statement of Objects and Reasons. It deals with many circumstances of local and temporary interest. It enters into minute detail upon a great variety of subjects, but when you come to look at the enacting parts of the Regulation and to subject its general expressions to the ordinary tests of legal criticism, it is almost impossible to say with any degree of precision, precisely what it means to enact and what it leaves unenacted. It unites, but does not very clearly distinguish, two main objects—*first*, the object of making provision regarding the assessment of the revenue, and *secondly*, the object of instituting a sort of system of registration which has become well known under the name of the 'Record of Rights.' This second part of the Regulation is, when closely examined, singularly vague, and in particular, it leaves practically undetermined the vital question: What is to be the legal effect of the system of registration thus established?

"I may illustrate the great obscurity of this famous Regulation by reading, with your Lordship's permission, one or two passages from a work from which much information is to be derived about Indian affairs, though it is conveyed in an exaggerated and vehement shape, and is deeply coloured by the strong opinions of its author. I refer to Shore's notes upon Indian affairs. That author describes the Regulation as follows:—'First, for the far-famed Regulation VII of 1822, whose mazes and intricacies have so bewildered the intellects of those Collectors who have attempted to put them in practice. Every extraordinary production of this nature has generally some primary moving principle, or mainspring, which, when divested of its outworks or external causes, will give us some insight into the nature of the effects it is intended to produce. The Regulation in question was the work of a very clever man, who was mainly guided by theory, but who was unfortunately deficient in that local knowledge and matter-of-fact experience, without which the fairest theories have failed. * * * * * * This famous Regulation is, in fact, a provision for introducing into the country a ryotwarree settlement, and a ryotwarree settlement is, when divested of its mystification, simply a plan to get rid of the principal farmers of the different

estates, and by making those settlements directly with the subordinate owners and cultivators, to realize to the Government the share which the principal farmer formerly received.' Elsewhere, he says of the same Regulation, that its 'fundamental principle is to destroy whatever good did exist under the ancient customs of the people without supplying its place with anything else, and in order to raise a still higher revenue for the Government. I repeat, again, the principle of it is to get rid of the manager of the estate and head of the farm, and assess each portion separately, by which proceeding Government hopes to realize his share for itself.' I think that this is unjust to Mr. Holt Mackenzie. It appears to me perfectly clear, on reading the Regulation, that its principal object was to protect subordinate rights, instead of making the zamíndar the absolute owner of the soil, as he became in Bengal, under the provisions of the permanent settlement; but the fact that the Regulation admitted of such a construction is sufficient proof of its extreme obscurity. This is further shewn by the amendments which were made in it by Regulation IX of 1833. The most important of these amendments, was that the Regulation was not to be considered to mean that the record of rights and the assessment of the land-revenue should take place at the same time. It is obvious enough that if this had been the law, the making of settlements would have been indefinitely prolonged. Whether this arrangement was, or was not intended by Regulation VII of 1822, is, perhaps, open to question; but the fact that such a question should have arisen respecting it, is an additional proof, if any such proof is required, of the extreme obscurity of the Regulation itself.

"The system established by Regulation VII of 1822, was in subsequent years very considerably modified by certain instructions issued to Settlement Officers and Collectors of Revenue by the authorities of the North-Western Provinces. After some changes, these instructions were consolidated into two books, the directions to Settlement Officers, and the directions to Collectors. The author of these works was, I believe, the late Mr. Thomason, and I may observe in passing, that of all the law books that have come under my notice, I should be inclined to say that they are very nearly, if not quite, the best.

"With some exceptions, to which I need not now refer, they are arranged and expressed with a degree of precision and clearness, which I do not think can well be exceeded. They were not, however, law, but merely commentaries upon the law.

"I have noticed that there is an all but insuperable tendency amongst persons who have to acquaint themselves with the law, to prefer hand-books to Acts. This probably arises from the fact, that Acts whether passed by Parliament

or by local Legislatures, have usually, till very recently, been drawn in a form as difficult, cumbrous, verbose, and repulsive as the perverted ingenuity of draftsmen could devise. The old Bengal Regulations were, I think, better drawn than contemporary Acts of Parliament; but that is about the only praise that can be bestowed upon their drafting, and it is not high praise. The hand-books drawn up by Mr. Thomason were infinitely superior to the Acts which they were intended to explain, and the natural consequence was that they superseded them.

"In the year 1849, the Panjáb was conquered and annexed, and the system which then prevailed in the North-Western Provinces was introduced into the Panjáb in a manner to which I will now proceed to direct your Lordship's attention.

"The Province was placed, as you are aware, under a Board of Administration consisting of Lord Lawrence, his brother, afterwards Sir Henry Lawrence, and Mr. Mansel. Their powers were defined in a despatch from the Government of India, dated the 31st March 1849. I have not the least doubt that the intention of those who drew up that despatch was to say to the Board of Administration—'Govern these Provinces as well as you can and according to your own discretion, and take for your guide, generally speaking, the system already established by law in the North-Western Provinces.' This, however, was not precisely what they did actually say. Part of the despatch to which I have referred is in these words: 'The Governor General would wish to uphold Native institutions and practices, as far as they are consistent with the distribution of justice to all classes; but he is persuaded that except in some of the wild districts of the Trans-Indus, or the Alpine country of the Sind Saugor Doab, there is no portion of the country which will not be benefited by the gradual introduction of the British system, at the earliest possible period.

* * * * With the knowledge now generally prevalent respecting village co-parcenaries, there is no apprehension that our officers will not exert themselves to maintain those important bodies in all their integrity.

* * * * The popular institutions will be improved and consolidated by our measures, and the native system of accounts and reports will be adhered to without any great or radical deviation.'

"In another part of the despatch, the following passage occurs: 'The four short printed circulars of the Sudder Board of Revenue of the North-

Western Provinces, and the pamphlets published under the orders of the Lieutenant-Governor, form an admirable body of instructions, adapted to any Province where the village system obtains, and explain so lucidly the structural and functional divisions of our complicated revenue machinery, that they should be largely indented for and circulated amongst our officers.' Under these instructions, the Board of Administration conducted the government of the country. It would be an impertinence in me to venture to praise the manner in which they did their duty. The success of the Administration of the Panjáb by Lord Lawrence and his colleagues must always form one of the brightest of the many bright pages in the History of British Rule in India. I may, however, observe that good as was the work done, it was performed with singularly blunt tools. So long as the government of the country was substantially a matter of military occupation and personal discretion, questions as to the precise meaning of the instructions under which the Board of Administration acted, did not, and indeed, could not, arise before Courts of Justice. This, however, was a state of things which could not last. The very object for the attainment of which Lord Lawrence and his colleagues laboured was the introduction of a regular legal system of government; and when Courts of Justice were established, and questions of right arose before them, it became obvious enough that the instructions originally given to the Board of Administration were vague in the extreme, and left open innumerable doors to questions affecting the whole administration and government of the country. A somewhat singular incident invested these matters with peculiar importance. The theory upon which conquered Provinces had long been administered by the Governor General in Council was that the Government of India possessed, as Agents for the Queen of England, the right, which Her Majesty undoubtedly possesses, of legislating for conquered territories. They treated, in short, conquered Provinces as being, what in English law would be described, as 'Crown Colonies.' Whether the constitution of the East India Company, and the various Acts of Parliament which had been passed with relation to the Government of India, justified them in this view, is a question upon which a good deal might be said, if the discussion were now of any practical importance. I refer to it only for the purpose of explaining the course of legislation. My distinguished predecessor, Sir Barnes Peacock, wrote a minute upon this subject, in which he expressed his opinion that the Government had no right to make laws for the Non-Regulation Provinces by a mere executive order, or in any other manner than by laws duly made in the Council of the Governor General assembled for that purpose, under the provisions of the Acts of Parliament which were then in force.

"The effect of this opinion was to render it altogether doubtful, whether or no, any law at all could be said to exist in the Panjáb, and whether the whole government of that country under the Board of Administration had not been one continuous series of illegal acts. The attention of Government was at that time engrossed by other matters. It was considered, and I have no doubt rightly considered, practically impossible to enact a special Code of Laws for the Panjáb. It would have been equally, if not more, objectionable to extend to the Panjáb, in the mass, the Regulations and Acts which had been passed for the government of other parts of India. Under these circumstances, the course actually taken was to introduce into the Indian Councils' Act in the year 1861, a provision to the effect that all laws, orders, and regulations hitherto made for the government of the Non-Regulation Provinces, should be confirmed.

"This enactment has, since that time, been regarded by the Government of India as a declaration by the Legislature that the Government possesses no other legislative powers in the Non-Regulation Provinces than it possesses in other parts of the country. This was one effect of the enactment in question, another effect of it was to stereotype the existing orders and regulations of the Government, and to give to them a degree of legal importance which they most certainly were never intended to have. It was enacted that existing orders and regulations should have the force of law, and lawyers were set to put a legal construction upon the despatches and correspondence which constituted these orders and regulations.

"It became at once apparent, as indeed it is apparent upon the most cursory inspection, that they left open questions of the very utmost importance.

"Take for instance this question: Does Regulation VII of 1822 extend, or does it not extend, to the Panjáb? The despatch to which I have already referred says that the 'Governor General would wish to uphold Native institutions and practices, as far as they are consistent with the distribution of justice to all classes.' Now, the Regulation in question was obviously drawn with reference to the existence of a set of Native institutions and practices which differed in many important respects from those which prevailed in the Panjáb. Regarding this despatch as a law, which is to prevail—the practices and the institutions on the one hand, or the words of the Regulation on the other? Again, the despatch says, that 'there is no apprehension that our officers will not exert themselves to maintain village co-parcenaries in all their integrity.' The effect of the provisions of Regulation VII of 1822, if introduced

into the Panjáb, would certainly be to render possible the destruction of these village communities. Did the despatch in question introduce these provisions, or did it not?

"I believe I have the authority of Sir Richard Temple, who having been Secretary to the Panjáb Government in Lord Lawrence's time, is better qualified than most persons to offer an opinion on this subject, for the assertion that Lord Lawrence and the Board of Administration never believed that it was the intention of the Government to introduce the Regulation in question in its entirety into the Panjáb. They considered—and it appears to me that there can be no doubt that they were right in considering—that their instructions were to take this Regulation as a general guide, but not to consider themselves bound by all its provisions in detail. The Chief Court of the Panjáb, on the other hand, when the question arose about three years ago, decided distinctly and recorded its decision in a minute which it wrote upon the subject, that Regulation VII of 1822 was in force in the Panjáb. I may remark that the whole of the violent, most acrimonious and unfortunate discussion which occupied the attention of Government upon the subject of Panjáb tenancy in 1868, arose out of this question.

"I may mention one further fact upon this matter. Mr. Robert Cust prepared a hand-book of revenue law for the Panjáb. This was issued to the various revenue officers; and questions might easily be raised as to the extent to which the contents of that book could be regarded as law. They differed in several respects both from Regulation VII of 1822 and from the instructions to settlement officers which were issued to explain it. Here, therefore, is a fresh source of difficulty upon this subject.

"Such, stated shortly, is the actual condition of the law relating to land-revenue in the Panjáb. The extremely unsatisfactory condition in which it stands has long been notorious, and, having been brought to the attention of the Secretary of State some time ago, Mr. Robert Cust received instructions to draw up a revenue code for Northern India. This work he accordingly undertook, and, about a year since, his draft was forwarded to the Government of India for its consideration in the Legislative Department. Our simplest course in some ways might have been to accept and to adopt Mr. Cust's draft code, but reasons, which I will now proceed to state in general terms, led us to the conclusion that this would be inexpedient. Mr. Cust's work, which I hold in my hand, has, beyond all question, very great merits. His great experience and industry no doubt enabled him to collect together all that

was to be said on the subject, and I think we may feel pretty confident that, if we succeed in extracting from Mr. Cust's draft all its material parts, we have omitted nothing essential to the completeness of the system.

"I will read a few lines from some observations which he has appended to the code itself, in order to confirm what I have already said in regard to the existing state of confusion in the law upon these matters: 'The law relating to the collection of land-revenue still remains in a state of lamentable and, except to those who are trained to its study, unintelligible confusion. Regulation upon Regulation, Act upon Act have been passed upon this most important subject between the year 1793 and the present time, rescinding parts or whole, modifying, contradicting, or reiterating. It has come to this in Northern India that no one pretends to study the law on the subject, but each man contents himself with the knowledge of the text-books and circulars of the executive authorities.'

"This description, I believe, to be perfectly correct.

"I will now say a very few words on the reasons which have led us to the conclusion that it would be practically impossible to accept and enact into law Mr. Cust's draft.

"It contains 1,281 sections and fills no less than 216 quarto pages printed in somewhat small type. A very large—I may say, indeed, by much the largest—part of it consists of matter which it is altogether unnecessary, and much of which it would, in my opinion, be dangerous, to put into the form of express law. Great masses of it are of the nature of mere executive orders, and enter, as it seems to me, into altogether needless detail. There is, for example, a section—chapter IV, section 25—which provides for discipline as follows: 'Discipline shall be enforced in the following manner: *A.* Reproof by word of mouth, or letter,' and then follow six other forms of administering discipline amongst revenue officials lettered up to '*G.*' It contains elsewhere an enactment that Collectors are to maintain rain-gauges in order to ascertain the amount of the annual rain-fall. I have no doubt that the rule is an excellent one, but it is one for which no law can possibly be needed. The effect of regulating matters so very minutely by express law would be to deprive the officers of the administration of all personal discretion, and to encumber them with a mass of intricate rules which it would be utterly impossible either to remember or to understand. In addition, however, to this, it must be observed that Mr. Cust's draft contains a very great

number of declarations of policy on the part of the Government. For instance, section 55 of Chapter III is in these words: 'It is declared to be the policy of the State, not to retain property in land, but in all cases to recognize and fortify indications of private property, whether undeveloped or partially obsolete, and, where absolutely non-existent, to create such property by grant to the person best qualified to make a good use of the land, and expand the resources of the Province.' It appears to me that it would be on every account most undesirable to insert into a law matter of this description. Mr Cust's code contains, moreover, a large number of provisions which lay down the principles, so to speak, of a system of real property law, and, in particular, it defines in many sections of very considerable length, the different kinds of interests which may exist in the land and its produce. It also lays down the rights of the State to land. I think that it would be more bold than wise to undertake, in the present state of our knowledge of local customs and institutions, to lay down principles so wide, and to invite such numerous and difficult controversies as would, beyond all doubt, be involved in their announcement.

"I may add that the draft code in question is intended to apply to the whole of Northern India, including the North-Western Provinces, the Panjáb, Oudh, and the Central Provinces. The circumstances of these various Provinces differ in many important respects, and, as I have already shewn, the existing provisions of the law in force in them are by no means identical.

"It seems to me, therefore, that it is not a wise course to attempt to have a single code for the whole of Northern India, but that it would be far better to have separate Acts for each Province, embodying their peculiar characteristics and providing for their various wants.

"Mr. Cust himself appears to have felt this, for the sixth section of his code, with reference to the peculiar circumstances of any Province in which this code may come into operation, enables 'the Government of India, on the motion of the Local Government, to intercalate into this code, additional sections and chapters which shall apply solely to such portions of the provinces, and suspend such portions of certain sections and chapters of this code, in such portions of the province, and to modify and rescind such intercalations and suspensions from time to time, so as to bring the law into harmony with the diverse and changing requirements of each province, and yet preserve the symmetry of the code.' The effect of such a provision as this would be to destroy the value of the code entirely. The Government might

alter it as they pleased, not only for every Province, but for every part of every Province; but all our experience shews that, in a very short time, a jumble of rules, circulars, and executive orders, having reference to various districts, or divisions, or provinces, would grow up which would render the new code ten times more difficult to understand than the existing system which it is intended to replace. For all these reasons we felt that it would be impossible to accept Mr. Cust's draft.

"We also felt that the opportunity for legislating for the Panjáb, afforded by our peculiar position during the present season, was one which ought to be seized, as it might not easily recur. We have been so fortunate as to have sitting in Council the Lieutenant-Governor of the Panjáb, my hon'ble friends Mr. Egerton, the Financial Commissioner, and Sir Richard Temple, whose early connection with the Province is so well known. Under these circumstances, it seemed to me that we might, during the present summer, prepare a Code of Revenue Procedure, which, though intended primarily for the Panjáb, might, if it were found successful and thought desirable, be readily adapted to the wants of other parts of Northern India. This Bill has accordingly been prepared; and in moving that it be referred to a Committee with instructions to report in four weeks, I wish to direct particular attention to the fact, that although the time may appear short, the measure has in reality been most maturely considered and not hurried in the slightest degree. The Bill has been drafted, I may say, under the superintendence of, and in daily concert with, the revenue authorities of the Province, and I trust that the effect of their advice and instructions upon the subject has been, that the Committee will be perfectly able to dispose of the measure within the time which I have mentioned.

"Before I enter upon the provisions of the Bill, I will say a few words upon the authorities from which it has been framed. In the first place, I consulted Mr. Cust's draft. In the next place, I carefully examined the sixty-five regulations which are supposed to have been introduced into the Panjáb by the despatch to which I have already referred, and of which my hon'ble friend Mr. Cockerell was good enough to supply me with a complete list. I have also consulted Mr. Thomason's instructions to Settlement Officers and to Collectors, and the whole work has, as I have said, been carried on under the eye of the Lieutenant-Governor and the Financial Commissioner of the Province. I hope, therefore, that the Bill will be found to be moderately complete. I may say a few words upon the sixty-five regulations to which I have referred. The list of them looks extremely formidable;

but when the matter is closely examined, they turn out to be a mere ghost, dressed up as it were in a white sheet. Some of these regulations re-enact others, some extend regulations already enacted to particular districts, which had then been recently conquered. Many of them refer to particular transactions long since past. Many others vary the procedure of the Courts in some insignificant detail; and, in fact, after fully examining and looking into every one of the sixty-five regulations in question, I arrived at the conclusion that Regulation VII of 1822 and Regulation IX of 1833 are the only ones relating to the subject which are of any serious importance. The matter, therefore, is not in reality by any means so difficult as at first sight it appears to be. The Bill, as drawn, will replace the whole of the existing Bengal Regulations upon the subject, and will condense into about eighty sections the 1,281, which have been drawn by Mr. Cust. I have said that it does not alter the existing law, but it fills up certain gaps which are left by the existing law, and it settles certain points which have been much discussed in connection with its provisions. It does not interfere in any degree with the Panjáb Tenancy Act of 1868, which regulates the rights of the parties interested in the land, as between each other. Neither does it interfere with section twenty-one of the Panjáb Courts' Act of 1865, which empowers the Local Government, whenever a settlement is in progress, to invest the settlement officers with whatever judicial powers they think fit in relation to suits connected with the land.

"After this long and, I fear, tedious preface, I come to state in general terms the provisions of the Bill which I have now the honour to introduce.

"The natural division of the subject is as follows:

I.—Officers.
II.—Settlement.
III.—Collection of Revenue.
IV.—Miscellaneous.

"On the subject of Revenue Officers little need be said. It is proposed merely to enact in very general terms the system as it exists.

"A settlement includes two great operations: the assessment of the revenue, and the formation of a record of rights.

"The assessment includes also two operations: the determination of the amount of the revenue which is to be paid in respect of particular pieces of

land, and the making an engagement with the person whom the Government permits to be answerable for the payment of that revenue.

"The record of rights must be considered with reference to three operations,—*first*, its formation; *secondly*, keeping it up; and *thirdly*, its revision.

"Further, it is formed *first*, by judicial decisions; *secondly*, by statements of individual rights and statements as to matters of fact recorded by the settlement officers. It is composed of the following documents,—*first*, measurement papers, one of which is an index map showing all the fields in each village in which the settlement is to be made; *secondly*, what is called the *khuteonee*. This is a list of the occupiers and owners, and a specification referring to the index map of the lands occupied and owned by them. *Thirdly*, a tender on behalf of the persons with whom the settlement is to be made to take the land for a certain time at a certain rate of revenue. *Fourthly*, the *khewut*, which, as I understand it, is a paper showing the shares in which the land is held and the persons who hold land-revenue free, and showing also the shares of revenue for which each holder is liable as amongst themselves, although there is also a joint and separate liability on every member of the village for the whole revenue due from it. *Fifthly*, the *wajib-ul-urz*, which is a record of the village customs, and forms a sort of village manual of real property law. *Sixthly*, what is called the final *rubikaree*, which is a record of the whole history of the settlement, and contains, amongst other things, a list of all law suits which have taken place before the settlement officers. These documents taken together form a record of rights; and I may observe first that, in enacting that the record of rights shall contain these documents, we merely give the force of law to an arrangement which has been found by experience to be convenient. The documents which I have mentioned are well understood by every settlement officer, and are prepared on every settlement with the greatest possible degree of care and precision. I am told that the practice with regard to some of them is, to cause all the landowners in the village to sign them, and to append to them a note of the absence of those who, for any reason, are unable to sign. Such are the operations of a settlement. But I must observe that settlements themselves are of four different kinds, and that these operations are performed in different ways, and under different circumstances, according to the nature of the settlement of which they are to form a part. A settlement may be, *first*, a summary settlement, that is to say, a settlement in which no record of rights is formed, but the engagements for the revenue assessed are taken from the parties in possession. *Secondly*, a first regular settlement. A first regular settlement is a

settlement in which a complete record of rights is made for the first time, and in which engagements for the amount of revenue assessed are taken from the persons who, according to the principles of settlement law, are held to be entitled to make such engagements. *Thirdly*, a re-settlement. This occurs, when, upon the expiration of the term of the first regular settlement, the amount of revenue is re-assessed, and the record of rights revised to a greater or less extent, according to circumstances. *Fourthly*, there may be a revision of the record of rights without any alteration in the revenue.

"Now, such being the operations which take place at a settlement, and such being the kind of settlements at which these operations are performed, I proceed to notice what I think ought to be one of the main features of this Act—a feature which is intended to remedy one of the principal gaps left open, by Regulation VII of 1822.

"That Regulation nowhere expressly decides what is to be the precise legal effect of the entries made in the record of rights. We propose that that effect should be as follows: All entries made in consequence of judicial decisions should have the effect of other judicial decisions. All entries made, as to matters of fact or matters of individual right, are to be presumed to be true in all cases, and as against persons who have the opportunity of dissent when they are made, are to become conclusive after five years.

"These are the general principles which we propose to lay down with regard to settlements.

"I now pass to the manner in which they are to be applied to the settlement of particular districts, and we propose that when a particular district is to be settled, the Local Government should, with the previous sanction of the Government of India, issue a notification which would bear to the Act that I am now introducing, the same sort of relation, that a special Act, about a particular railway, bears to the Acts of Parliament, well known to your Lordship, as the Land Clauses Act, or the Railway Clauses Act.

"The notification will state specifically the district under settlement, the nature of the settlement proposed to be made—as it falls under one or other of the four heads to which I have referred—the judicial powers, if any, with which the settlement officers are to be invested; the details, if it is thought desirable to specify any details, with regard to the record of rights, and in the case of a re-settlement or a revision of a record

of rights, the particulars as to which any existing record of rights is to be subjected to revision. It is, however, provided that no entry affecting any proprietary or other right shall be altered except by the consent of the parties or after a judicial proceeding. The effect of this will be, that the settlement officer will know precisely what he is to do, and the Courts of Justice will know precisely afterwards what he actually has done.

"Such is the machinery by which we propose that settlements should be made. I may pass shortly over the other provisions connected with them. We propose to determine in terms nearly resembling those of Regulation VII of 1822, though not identical with them, with whom the settlement is to be made. We further propose to lay down provisions for handing over the record of rights, when completed, from the settlement officer to the Deputy Commissioner, in whose charge it will be kept; and the Local Government will lay down rules by which the necessary alterations caused by death, sale, or decrees of Court, may, from time to time, be made in it by the person who has charge of it.

"This concludes what I have to say as to the provisions of the Act as to making settlements.

"The next subject with which it deals is that of the collection of revenue. It is very difficult to say what the existing law upon this subject is. I believe that sales for arrears of revenue are practically unknown in the Panjáb. Whether they are legal or not, is a question on which I can imagine a dispute being raised in consequence of the terms of the despatch to which I have already referred. It is at all events perfectly clear that whether legal or not, they ought to be introduced. They are the *ultima ratio* for the collection of revenue; and, though the power should be exercised in the most sparing manner and with the greatest possible caution, it seems to those who are the highest authorities on the subject, that it is one which cannot be dispensed with.

"I may say a few words upon the subject of these revenue sales. The practice, I believe, was entirely unknown to the Native Governments, although the process of forfeiture was not unknown to the Síkhs in the Panjáb. They were introduced into Bengal shortly after the permanent settlement, and, in that part of the country, if a person did not pay his revenue to the day, subordinate revenue officers had a right, which was most freely exercised, of bringing his land to the hammer immediately. From Bengal the practice

passed into the North-Western Provinces. It excited, as I have been told, the greatest indignation, and the worst possible feeling on the part of the natives, and I have frequently heard it asserted that, during the mutinies of 1857, the only popular movements which took place at all in the North-West, were movements for the purpose of taking possession of lands which had been sold either for arrears of revenue or under decrees of Court. The evils which this state of things produced were keenly felt; and, in order to avoid them, a device was resorted to, which has frequently been tried in England, but which, I am inclined to think, proceeds upon altogether a wrong principle. Sales were maintained, but they were surrounded with a variety of formalities which made it exceedingly difficult for the Collector to sell without falling into some error which would vitiate his proceedings.

"This is, in principle, very like the practice that obtained in England, of attempting to mitigate the extreme severity of the old criminal law, as it originally stood, by excessive scrupulosity in regard to indictments. You might hang a man for stealing five shillings, on condition that you drew up your indictment in such terms that the most astute lawyer could not pick a hole in it. I do not think this system of trumping tyranny, by quibbles and nibbling at a law, which you do not choose either to repeal or to enforce, can ever be a good one. Legal procedure ought in all cases to be clear, short, and decisive. If there is a danger that it may be used oppressively, the proper remedy is to require that it should not be put in force at all without the sanction of those who are not likely to abuse it. We propose accordingly that no sale of lands for arrears of revenue shall be valid without the previous sanction of the Lieutenant-Governor of the Province.

"This is the real security against abuse; and I sincerely hope that, as it never has as yet been found necessary to sell land in the Panjáb for arrears of revenue, it never may be found necessary in the future. It will be for the consideration of the Committee, whether, having regard to this sanction for sales, it may not be possible to simplify the present procedure in respect to them.

"I need not detain the Council with many words upon the miscellaneous provisions of this Bill.

"They refer to certain duties which are thrown upon revenue officers, and which have no relation to the general subject of the assessment or collection of the revenue. I may pass them over with this observation. As I have

already remarked, the land-revenue system of the Panjáb, though not identical with, is very similar to, the land-revenue system of the North-Western Provinces.

"I trust that this Bill may be considered by the North-Western Provinces Government, and that, if that Government think it can be adapted to the purposes and wants of those provinces, it will make such suggestions to us on the subject as it may think desirable."

His Honour the LIEUTENANT-GOVERNOR of the Panjáb said that, after the elaborate statement just made by the Hon'ble Mr. Stephen, it was unnecessary for him to do more than express the entire concurrence of the Panjáb Government in the views expressed and in the policy of the proposed measure. Mr. Stephen's explanation would show that the task which he had undertaken was no easy one. The law now about to be superseded was about fifty years old, and, within a few years of its enactment, its imperfections had begun to be perceived and criticized. No one, however, had hitherto undertaken its reform; the consequence had been great indistinctness, frequent mistakes, and no small public inconvenience. The Panjáb would, His Honour was sure, not be slow to recognize the advantages of such a Bill as the one now introduced, and, should it be passed, it would, he believed, be amongst the enactments most creditable to the energy and skill of His Excellency's administration.

The Hon'ble SIR R. TEMPLE said—"I have but one remark to make in corroboration of what has fallen from my hon'ble colleague, Mr. Stephen, regarding the introduction, or rather the non-introduction of Regulation VII of 1822, into the Panjáb. I, for one, share his belief that this Regulation was never formally introduced into the Province. What was done at the outset, was to introduce in the most general terms the North-West system. That system embraced the main substance of that Regulation, but nothing further. It was also a common instruction in those days to act in the spirit of the Regulations. Thereby it was meant to leave a wide margin, within which that Regulation might be modified by executive authority from time to time. As for any particular section, or clause of that Regulation being adduced to check or to contravene the proceedings of the executive, no such idea was present to the minds of those who founded the administration of the Panjáb.

"I have one thing more to say, which is to express my satisfaction at the honourable tribute which Mr. Stephen has paid on this, as on a former occasion,

to the memory of Mr. Thomason, who certainly was one of the greatest administrators that ever adorned the services of India. I observed this tribute paid by so impartial an authority as Mr. Stephen, with the more satisfaction in that I have often seen with sorrow of late years—an unreasonable depreciation of the statesman who illustrated that period of Indian history. Perhaps while on this topic, and while adverting to the celebrated circulars of the Board of Revenue, Mr. Stephen might have mentioned the name of one even as great as Mr. Thomason, namely, Mr. Mertins Bird. Indeed, the Lieutenant-Governor now present, will bear me out in saying, that under Mr. Bird and Mr. Thomason, were trained the men now known to history, who made the Panjáb what it is, whose labours are attested by the present prosperous condition of the Panjáb, which indeed constitutes a living monument to their fame—a monument that will be durable as the Province advances in prosperity from generation to generation."

The Hon'ble MR. EGERTON wished to remark, with reference to his hon'ble friend's (Mr. Stephen's) observations on the backwardness of the Indian Government to legislate on land-revenue, that there had been in the Panjáb excellent reasons for the hesitation which Government had shown in dealing with that difficult and important subject. Legislation had not been postponed without a cause. When the English took possession of the Panjáb, they found a country inhabited by village communities—institutions characterized by remarkable fixedness and vitality. The officers entrusted with the administration of the conquered province were expressly instructed to respect the existing institutions of the country, and no one could doubt the policy of such an order. They had been directed, moreover, not to assess severely, but to limit the Government demand to a moderate proportion of the profits of the soil. Both those orders had been carried out; the village communities remained in unimpaired vigour, and the agricultural classes had been raised by moderate assessments from the prostration to which the exactions of the Síkh Government had reduced them. Property in land might be said to have been created, and agricultural improvements had received a stimulus which had brought the prosperity of the proprietory body in the province to a very satisfactory level. There could be no doubt as to the general prosperity and content of the agricultural classes. They fully realized the advantages of a regular and indulgent administration of land-revenue law; no difficulty was experienced in collecting the tax, the arrears were altogether insignificant; compulsory process against defaulters was very exceptional, and the sale of land for arrears of revenue might be said to be unknown. This state of things was one which of course conduced very materially to the stability of the Government, as the experience of the mutiny had shown. And this accounted for

the fact that the Government had been content to go on for a long time with a land-revenue law which was perhaps not very clearly defined by written enactments, but which was at any rate sufficiently distinct to be administered with results which were, on the whole, so eminently satisfactory. The time had now, however, come for substituting more distinct enactments for a system avowedly tentative and temporary. The very fact of our system having added so largely to the value of land, resulted in there being many claimants for it, and it was necessary that such claims should be investigated and adjusted by a strictly defined rule of law. He entirely concurred in the advisability of the legislation now contemplated, and was glad that the matter had fallen into the hands of one who had not allowed the many technical difficulties which beset it, and which persons not practically acquainted with the details of revenue law naturally found so repulsive, to deter him from thoroughly mastering it and reducing it to an intelligible and systematic arrangement.

The Motion was put and agreed to.

INDIAN WEIGHTS AND MEASURES OF CAPACITY BILL.

The Hon'ble Mr. Stephen also introduced the Bill to regulate the weights and measures of capacity of British India, and moved that it be referred to a Select Committee with instructions to report in four weeks. He said that he had, on asking leave to introduce the Bill, informed the Council of the circumstances under which this Bill was being proceeded with. It was unnecessary again to trouble the Council with a statement of those circumstances. The present Bill was merely a re-enactment of the disallowed measure of last year, with the omission of those provisions to which the Secretary of State had taken exception, and of certain powers of making the act obligatory, with which it did not appear desirable that Government should be invested.

The Hon'ble Mr. Strachey said, that he wished, with His Excellency's permission, to make a few remarks on this Bill, because he had seen signs of considerable misconception on the part of the public in regard to what had occurred, and he thought it was important that it should be distinctly understood that, although the Secretary of State had disallowed the Act passed by this Council last year, there had never at any time been, nor was there now, any difference of opinion between the Secretary of State and the Government of India, regarding any principle involved. The only difference had been, how the principles on which all were agreed should be carried into practice. The question at issue had been one of procedure only.

MR. STRACHEY thought it might be useful to recall to mind very briefly the history of this measure. The memory of public matters in India was short, and a good deal had been stated on the present subject, which showed complete misapprehension of the facts. It seemed to be supposed by some people that the Government had an intention of forcing upon India the metric system of France, or he ought rather to say, of Europe, for with the exception of England, it was the stysem of almost the whole of civilized Europe. The Government never had, and never would have, any such insane idea. The truth was this—There was, at the present time, no system of weights and measures in India recognized by law. People often talked of British Indian maunds and seers, but these weights had no legal existence. There was probably no other country in the world with a Government calling itself civilized, of which this could be said, and it had long been admitted to be a matter of essential importance, that some definite system should be adopted. The only doubt had been what that system was to be.

There had been a general agreement that the most convenient unit of weight for India would be a *seer*, because this was the weight more commonly known to the people than any other. The average weight of Indian seers was found to be about 2¼lbs. avoirdupois—2 lbs. was decidedly below the average, and so was the old British Indian seer which weighed 80 *tolas*. The kilogramme of the metric system was equal, within an almost inappreciable fraction, to 2¼lbs avoirdupois; and, looking at the question from a purely Indian point of view, in the interests of the people of India alone, and apart from all theoretical considerations, the Government of India came to the conclusion, that this was the most convenient unit of weight that could be chosen. This fortunate accident of the practical identity between the kilogramme and the average Indian *seer*, gave us the great advantage of placing our official system of weights in correspondence with that which already existed in the greater part of the civilized world, and which might probably be ultimately introduced into England. This conclusion had been adopted by the Secretary of State and by the Government of India, and it was approved last year by this Council, which had then the advantage of the presence of commercial gentlemen of much eminence, without a dissentient voice. It had always been agreed, that the new system ought not, in regard to private trade and dealings, to be forced upon any section of the public, until the public was really prepared to receive it with approval. The Government of India and the Secretary of State, agreed in the first instance, that it was desirable to deal at present with weights only, and not with measures of length. The Government of India, afterwards thought it desirable to take the opportunity of defining also

in the new law the future standard of length, but the Act was so worded that no compulsory powers for its introduction could, under any circumstances, be taken. The metre was declared to be the official unit of length, because it was the opinion of the highest engineering and other authorities, that the unit of weight being that of the metric system, the unit of length of the same system, would be the most convenient that could be chosen for official purposes. But it was never proposed to force it on the public. The Secretary of State thought, that the original conclusion was the best, that no reference to measures of length should be made in the Act, and that certain sections containing compulsory powers in regard to weights went further than was desirable. But, in regard to the essential questions at issue, there never had been any difference of opinion, and he (MR. STRACHEY) desired to repeat, that the Bill which his hon'ble and learned friend Mr. Stephen proposed to introduce to-day, represented in reality the views which the Government of India had always held, as exactly as that which had been disallowed by the Secretary of State.

His Honour the LIEUTENANT-GOVERNOR observed, in confirmation of what the Hon'ble Mr. Strachey remarked, as to the impropriety of calculating the seer at 2 lbs. avoirdupois, that he remembered in Lucknow serious discontent being occasioned by the introduction of a seer, which weighed only 2 lbs. The local seer weighed a fraction over that amount. The dealers took advantage of the fact of a new seer being introduced, and charged the same price for the new seer, as they had for the old, and so got the advantage of the difference between the two seers. Every purchaser accordingly found himself mulcted to a corresponding amount, and serious dissatisfaction resulted.

The Motion was put and agreed to.

PANJAB REGULATIONS' BILL.

The Hon'ble MR. STEPHEN applied to His Excellency the President to suspend the Rules for the conduct of Business.

The President declared the Rules suspended.

The Hon'ble MR. STEPHEN then introduced the Bill for declaring what laws are in force in the Panjáb, and moved that it be referred to a Select Committee with instructions to report in four weeks. He said:—"My Lord, this Bill is so closely connected with the Panjáb Land-Revenue Bill that many of the

observations which apply to the one apply to the other. I have pointed out in reference to the other Bill the peculiar manner in which the Bengal Regulations were introduced into the Panjáb, and I may observe that the laws upon subjects other than land-revenue, which were so introduced, were exceedingly numerous and extremely complicated. The difficulty of saying what law was introduced, and what was not, is quite as great in the one case as in the other; and I may add that questions of great importance have arisen on this subject between the Executive Government and the Courts of Justice. Some years since, a series of Regulations which I believe to have been exceedingly wholesome, were made by the Executive Government for the purpose of confining certain criminal tribes in various parts of the province within the districts in which they resided, and forbidding them to leave those districts without express authorization. These rules, which had been acted upon and proved beneficial for a considerable period, were declared by the Chief Court to be illegal; and the consequence of that decision has been that, for some time past, these tribes have been relieved from the restraint imposed upon them, and have been enabled to pursue the unlawful practices which this restraint was intended to prevent.

"This is one of the many illustrations that might be given of the extreme obscurity in which the law relating to the Panjáb has been involved by the manner in which it was introduced. The obscurity has been, to a considerable extent, cleared up by the Panjáb Government in its answers to a letter which was sent out in the time of my hon'ble predecessor Mr. Maine, calling upon the Local Governments of Non-Regulation Provinces to forward a return of all the laws, orders and regulations in force in those provinces which had acquired the force of law under section twenty-five of the Indian Councils' Act. I hold in my hand the book which was forwarded to us as an answer to these questions.

"It contains 408 closely printed octavo pages, and it also contains three schedules of regulations which are considered to have been introduced into the Panjáb. These schedules fill 17 other pages, in addition to the 408 pages already mentioned. I need not remind the Council of the observations I made on this matter, when I obtained leave to introduce this Bill some time ago. I may, however, say that the Bill is now being prepared with the same object and advantages which we had in preparing the Revenue Bill, and I hope that, when taken in connection with that measure, it will completely wipe away all the rules contained in this book, and all the regulations, with the exception of a few specified, referred to in this schedule.

"I will now shortly go through the Bill and state what its provisions are. It begins by stating what law is to be in force in the Panjáb. First, all Acts of Parliament generally applicable to British India, then, all Acts of the Governor General in Council which apply either to the whole of British India or expressly to the Panjáb; then, such of the Bengal Regulations as we do not propose to repeal. These are contained in a schedule by themselves, and I am happy to say that they will be five in number, and no more. Two of them refer to mortgages, one to the declaration of Martial Law, one to the confinement of State prisoners, one to alluvion and diluvion, and another to a very small matter connected with the arrest of European soldiers who are liable to the jurisdiction of Courts Martial. Of these, those two which relate to mortgages and to the arrest of soldiers will, I hope, be soon repealed by consolidation Acts.

"Those which remain, refer to the subjects of Martial Law, State prisoners, and alluvion and diluvion. In questions regarding inheritance, marriage, female property, adoption, dower, guardianship, minority, &c., the Courts are to administer the Muhammadan or Hindú law with certain modifications. In cases not otherwise specially provided for, they are to decide according to justice, equity and good conscience. These words, though vague in themselves, are pretty well understood throughout British India, and are not likely to lead to any misapprehension.

"These general provisions are followed by specifications of particulars in the Hindú and Muhammadan law, which are to be modified. I need not trouble the Council at any length upon this matter. The principal subjects to which the modifications refer are the law of inheritance, the law of minority, the law of betrothal, and pre-emption. These modifications are contained in the work drawn up by my hon'ble friend Sir Richard Temple, when Secretary of the Panjáb, which has long been known under the title of 'The Panjáb Civil Code.' It is an excellent work, but, having been drawn up by an officer much engaged in other business, and not at the time specially familiar with law, it has been found to give rise to a good deal of litigation and has been made the subject of many doubtful decisions.

"I may observe that, in his preface to the original edition of the work, the author makes the following observations: 'It is not indeed hoped that the first part contains anything approaching to a digest of law or of rights. Omissions and imperfections may doubtless be discovered in every section. Still the principles are believed to be correct as far as they extend, and to merit the

attention of Judicial Officers in the Panjáb in the absence of any other and better treatise.'

"This is a just and modest view of the nature and value of the Panjáb Civil Code, and it deserved more general acceptance than it appears to have gained. The Panjáb Civil Code has been regarded by many authorities as having the force of law, and an enormous number of decisions have been made on various parts of it. It has been swollen from a work of a few pages into one of those enormous receptacles of notes, comments, sections of Acts, and general observations, which pass in England under the name of legal text books. We propose to codify those parts of it which elaborate the provisions of Muhammadan and Hindú law, but altering their wording and arrangement, and adding to them the substance of such decisions as have been given by Courts of Justice in the Panjáb. One point in the Panjáb Civil Code specially requires notice. It contains provisions as to insolvency which I believe are peculiar to the Panjáb, the subject being provided for in other parts of the country by certain sections in the Code of Civil Procedure. These provisions we propose to re-enact with certain additions suggested by experience.

"I now come to the regulation law which has been introduced into the Panjáb. Here, again, I have carefully examined the different regulations referred to in the three schedules which Mr. Barkley has appended to his book. The regulations of the first schedule refer to the subject of criminal justice. They are rendered almost entirely obsolete by the enactment of the Indian Penal Code, which was extended to the Panjáb in 1862. We propose to dispose of the whole of those criminal regulations by enacting that the Penal Code shall have a retrospective operation as to all crimes committed in the Panjáb before it came into operation in 1862. In this there can be no hardship. In the first place, it is very unlikely that any such criminals should hereafter require to be tried, and, in the second place, if the case should arise, the Penal Code merely enacts the substance of the pre-existing criminal law, and adds in no respect to its severity.

"With regard to the regulations in the second schedule, which relate to civil justice, and which are twenty-six in number, I have carefully gone through them, and I am happy to say that, having examined them with considerable attention, I find that the whole amount of law still unrepealed and contained in these regulations may be condensed into about twelve sections, and no more. Of these twelve sections, my friend Mr. Cunningham says we may omit four. Eight sections, therefore, of the old regulations will still be enforced under

this schedule. The regulations of the third schedule relate to revenue law, and these regulations will all be disposed of by the Act which I have already introduced. The Bill will conclude with power to the Local Government to make rules upon a considerable number of local matters.

"I need not enter upon this topic. It is obvious that the Local Government ought to possess powers of this sort, and the particular matters over which they may have power will be hereafter carefully considered in Committee.

"The result of the whole is this: the existing law of the Panjáb, other than the law which is contained in Acts of Parliament and Acts of the Council of the Governor General, will be reduced to two Acts, namely, the Revenue Act, which I have already introduced, and the Act which I am now introducing, which will contain fifty-eight sections and a schedule specifying four or five Bengal Regulations. The effect of this will be to enable the officers to administer the province, to know definitely the law which they will have to administer, and to deliver them entirely from the vast and very obscurely drawn body of laws which, to a certain extent, has been half introduced into the Panjáb from other parts of the empire."

His Honour the LIEUTENANT-GOVERNOR expressed his entire concurrence in the course now proposed. The new law would be of great assistance to the judicial branches of the administration.

The Motion was put and agreed to.

RAILWAY BILL.

The Hon'ble MR. COCKERELL moved that the report of the Select Committee on the Bill to amend the Railway Act be taken into consideration. He said, that this Bill, it would be remembered, was introduced into the Council nearly six months ago by their late colleague Major-General Strachey, with the object of amending the railway law in certain particulars, two only of which were of any special importance.

One of those amendments related to the fencing of railways. The existing law made it obligatory to fence every railway throughout its entire length. For the reasons stated on the introduction of the Bill, and to which he need not advert now, it was proposed to remove this restriction, and, in substitution therefor, to confer on the Government the power of determining what railways should or should not be fenced.

Without, however, going into the question of the expediency of providing fences for all railways, he might remark, that looking to the only manner in which an obligation imposed in express terms by law in regard to such a matter could be enforced, the enactment of such an obligation was obviously unsuited to the circumstances of railways in this country, which were either, as in the case of guaranteed railways, virtually the joint property of a Railway Company and the State, or wholly the property of the latter. The important question which the Committee had had to consider, in connection with this change of the law, was its legitimate effect upon the special provisions of the existing law in regard to the liability of the owners or persons in charge of cattle trespassing or being driven upon a railway.

As the law now stood, the perfect equity of such provisions admitted of no doubt, inasmuch as every railway being fenced throughout, presumably no cattle could get within the enclosure of the railway except through the gross and culpable carelessness or wilful act of the person who had charge of such cattle. But, under the proposed change of the law, the question arose whether, in the case of unfenced railways, the special penalties (and he had used the word 'special' in contradistinction to the ordinary penalties allowed by the Cattle Trespass Act) for cattle trespassing or being driven upon such railways, could equitably be imposed.

In the absence of the mover of the original Bill, it could not be clearly ascertained whether that measure was intended to bring the special penalties to bear on the owners or persons in charge of cattle trespassing or being driven upon *unfenced* railways. The words used in the sections referring to this matter were—"Any railway duly provided with fences in accordance with the rules applicable to such railway." The last words of the sentence, it would be observed, so far qualified those which preceded them, that without any straining of language, an unfenced railway would come within the legal construction to be placed upon such a definition. In any case it was clearly necessary to place the intention of the legislature in this matter beyond the possibility of misconstruction, and the question which the Committee had to determine was, whether the clauses imposing the special penalties above referred to, ought to apply to unfenced railways. The question was not so one-sided as it might at first sight appear, for the very existence of a law which attached penalties to the trespass of cattle in a country where the enclosure of the property to be protected was quite exceptional, must be taken to be a distinct affirmation by the legislature of the principle that it was justifiable to impose some responsibility on the owner of trespassing cattle in cases in which the owner of the property to be protected had done nothing on his part towards its protection. The question of

the imposition of responsibility for the trespass of cattle under those circumstances now to be settled, was, therefore, merely one of degree, and, after a careful consideration of the subject, the Committee had adopted the safer conclusion that the penalties for the trespass of cattle on unfenced railways should have been confined to those prescribed by the Cattle Trespass Act, so that the more stringent provisions of the law in this matter should have applied only where the railway was properly fenced.

The other important amendment of the law contained in the Bill as introduced, was designed to secure greater efficiency in the maintenance of discipline amongst the persons employed on a railway, which was so essential to the safety of the travelling public. For this purpose it was proposed to empower the Railway Companies, or in the case of a State railway, the officer of Government charged with the control of such railway, to frame subsidiary rules not inconsistent with the general rules sanctioned by the Government, and to attach the same legal consequences to the infringement of such subsidiary rules, as would, under the existing law, apply to the breach of the rules sanctioned by Government.

The consideration of this amendment, led the Committee to the review of those sections of Act XVIII of 1854, which prescribed the conditions under which persons employed on a railway were at present liable to the penalties therein defined. By section twenty-six of that Act, any officer or servant of a Railway Company doing anything which he was by law prohibited from doing, or wilfully or negligently omitting to do any act which he was in like manner bound to perform, and thereby endangering the safety of any person travelling or being on such railway, was made liable to certain punishment; and, further, by section twenty-nine of the same Act, every such officer and servant was declared to be legally bound to do whatever he was required to do by any regulation of the Railway Company which had been sanctioned by the Government.

In the opinion of the Committee, the purport and effect of those two sections might be much more clearly and intelligibly expressed. Moreover, the only object of the provision of the original Bill for empowering the Railway Company or person in charge of a State railway to make subsidiary rules, was to extend the legal consequences of the breach of the general rules referred to in the above sections to the wilful violation of such subsidiary rules.

All this, it was thought, could be as completely and much more simply attained by the substitution for sections twenty-six and twenty-nine of Act XVIII of 1854, and section eight of the original draft, of the new sections twenty-six and twenty-eight as drawn in section two of the amended Bill.

The only alteration of substance originated by the Committee, was the imposition of certain defined penalties of inconsiderable extent for breaches of rules specially sanctioned and allowed by Government, even where such breach did not directly endanger the safety of travellers or persons on any railway.

The existing law provided no penalty in such cases unless some distinct criminal offence was committed. It was, for obvious reasons, desirable, in the interests of the travelling public, as well as for the due protection of railway property, that the Companies and persons entrusted with the control of railways should have some greater power than they have at present for enforcing discipline and obedience to rules.

It might be said that the liability to forfeiture of situation should be a sufficient security for general obedience to orders and rules on the part of the railway servant, but this was a mode of punishment ill adapted to the majority of cases, and, if on no other ground, there would be this strong objection to its general application that it worked both ways, not merely as a punishment to the employé, but also to the injury of the employer.

But it was hardly to be expected, that this provision would completely attain its intended effect unless it could be applied as promptly in the case of the considerable section of the employés on any railway, who were European British subjects, as in that of other persons so employed. It was proposed, therefore, to confer summary jurisdiction in such cases, in respect to European British subjects, on the local Magistrates who were also Justices of the Peace.

Lastly, Mr. Cockerell remarked that the Bill was undoubtedly open to the objection which attached to all patch-work legislation, but this could not, under the circumstances of the case, have been avoided.

It would have been more satisfactory to have repealed the whole of the original Act of 1854, and the three or four subsequent enactments on the same subject, and to have re-enacted so much of the entire law as it was desirable to retain in one consolidated Act; but, as was before stated, the Government

was at present unable to undertake any permanent legislation in the matter of railways, as there were many questions connected with the subject on which the Government and the managing Boards of the Railway Companies in England had as yet arrived at no definite agreement.

Fortunately for the attainment of the desired object: the early consolidation of the law relating to railways, the task of adjusting the necessary details and arranging the basis of a permanent legislative measure, was in the hands of Major-General Strachey, now in England, whose well-known energy in carrying out whatever he undertook, was a sufficient guarantee that there would be no needless delay in the matter.

The Motion was put and agreed to.

The Hon'ble MR. COCKERELL then moved that the Bill as amended be passed.

The Motion was put and agreed to.

The following Select Committees were named:

On the Bill for consolidating and amending the law as to land-revenue procedure in the Panjáb, His Honour the Lieutenant-Governor of the Panjáb, the Hon'ble Mr. Strachey, the Hon'ble Sir R. Temple, the Hon'ble Messrs. Cockerell and Egerton, and the Mover.

On the Bill to regulate the Weights and Measures of Capacity of British India, the Hon'ble Messrs. Strachey and Cockerell, and the Mover.

On the Bill for declaring what laws are in force in the Panjáb, His Honour the Lieutenant-Governor of the Panjáb, the Hon'ble Mr. Strachey, the Hon'ble Sir R. Temple, the Hon'ble Messrs. Cockerell and Egerton, and the Mover.

The Council adjourned to Thursday, the 28th September 1871.

H. S. CUNNINGHAM,
Offg. Secy. to the Council of the Governor General for making Laws and Regulations.

SIMLA;
The 5th September 1871.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 *&* 25 *Vic., cap.* 67.

The Council met at Simla on Thursday, the 28th September 1871.

PRESENT:

His Excellency the Viceroy and Governor General of India, K. P., G. M. S. I., *presiding.*

His Excellency the Commander-in-Chief, G. C. B., G. C. S I.

The Hon'ble John Strachey.

The Hon'ble Sir Richard Temple, K. C. S. I.

The Hon'ble J. Fitzjames Stephen, Q. C.

The Hon'ble B. H. Ellis.

Major-General the Hon'ble H. W. Norman, C. B.

The Hon'ble F. R. Cockerell.

The Hon'ble R. E. Egerton.

LAND IMPROVEMENT BILL.

The Hon'ble MR. STRACHEY moved that the Report of the Select Committee on the Bill to consolidate and amend the law relating to advances of money by the Government for the improvement of land be taken into consideration. He said that this Bill was essentially the same as when it was published some months ago, when it was referred to a Select Committee. But there had been one important change. It was formerly proposed that it should be applicable to Northern India only, whereas the Committee now recommended that it should be extended to the whole of British India.

The Council would remark that the Lieutenant-Governor of Bengal, in a former debate upon this Bill, expressed a wish that it should apply to that Province. The Bombay Government had stated its approval of the Bill, and its desire that it should be extended to the Bombay Presidency. The Madras Government, while retaining the general objections to the measure which it formerly urged, had stated that if the Bill was made applicable to the rest of India, it wished it to be made applicable to the Madras Presidency also. Under these circumstances, the Council would probably have no hesitation in

accepting the recommendation of the Committee, and in extending the Bill to the whole of British India.

He need not say much about the objects of the Bill, because they had been fully stated on former occasions. In regard to the main principles of this measure, there was no novelty in it. It was a consolidation of the old taccáví laws, with some important amendments. It ought, he thought, to be remembered to the credit of the British Government of the last century in India, that it recognized by law the principle now acted upon with so much advantage at home, under the Land Improvement Acts, that it was the duty of the State to make use of its resources in encouraging and developing agricultural improvement. The old Regulations for which it was proposed to substitute the present Bill, had not, he believed, in any Province, been applied on any defined and organized system. Their application had mainly depended on the opinions or zeal of individual officers of the Government. Nor would it have been easy to introduce such a system, for the provisions of the existing law were, to some extent, unsuitable and obsolete. For instance, if the law were strictly acted upon, which he believed it never was, they would have to charge twelve per cent. interest on all advances. What they required was a well organized system under which the Government should encourage, by loans granted on the security of the land to be improved, the construction of simple works of agricultural improvement, such as wells, tanks, minor water-courses, and so forth. The Government was now gradually covering India with great works of irrigation on a scale unknown in any other part of the world, but no proper provision had hitherto been made for the encouragement of the humbler but hardly less valuable class of works to which this Bill referred—works which would be constructed by the landed proprietors and occupiers themselves.

The present measure brought with it no financial risk, and imposed no charges whatever on the revenues of the State. Government would make advances at a somewhat increased rate of interest over that which it itself had to pay, but still at a lower rate than money could be borrowed at from other parties, and he presumed that these advances would ordinarily be made, or might, with perfect propriety, be made from the money borrowed for reproductive works.

Those works would be so simple that there could be no doubt under proper management of their reproductive character. The security for re-payment would, in almost every case, be the land itself on which the improvement was made. He only wished that they had some such sort of local and well-defined security for the re-payment to the State of the charges incurred on the great

works of canal irrigation executed by the Government itself. There was no doubt that they ought to have such security, and he believed that at some future time they would get it. This, however, was not a question he need dwell upon now, as it might perhaps, before long, come up for consideration before the Council, when the Canal Bill was being proceeded with.

Hitherto, advances of this character had only been made to the proprietors of the land to be improved. Under the present Bill, advances, under certain circumstances, might also be made to tenants; but the consent (either expressed or implied) of the landlord would be always necessary, unless the Collector should be satisfied that the tenant possessed in the land an independent and transferable interest which would furnish by itself, without reference to the landlord, a sufficient security for the re-payment of the loan.

The Government would make rules as regards all details not expressly provided for in the Bill.

The practice laid down in the old Regulations which had been found perfectly successful in protecting the Government against loss, was also introduced into this measure, namely, that advances would be recoverable as arrears of land-revenue.

He hoped that if this measure became law, it would prove the starting point of a system under which benefits of the greatest possible value might be conferred upon the country.

In conclusion, he had only to say that he desired to thank his Hon'ble friend, Mr. Cockerell, for the very great assistance which he had given in framing and in improving this Bill. From the time when it was first brought forward his Hon'ble friend had taken much interest in the measure, and they had in a great degree to thank him for the satisfactory form in which he (MR. STRACHEY) thought, it was now placed before the Council.

The Hon'ble SIR R. TEMPLE said that he entirely agreed in the remarks of his Hon'ble friend, Mr. Strachey. The Financial Department concurred heartily in the Bill. The advances provided under the Bill would be made, of course, from the cash balances, and the cash balances consisted partly of the results of imperial taxation, and partly of sums raised by loan. Now, how

was it possible to spend such balances more properly than in stimulating and assisting agriculture—the only reliable field for taxation? The security for these advances was the best possible—the very land that was to be improved. He agreed that it was highly desirable that similar security should be provided in the case of canals; any such proposal would certainly have his (SIR R. TEMPLE'S) support. As to the rate of interest it would always be such as to fully recoup the Government for all expenses connected with the loan; no fraction of any such expenses would fall on the general tax-payer. In former times some small advances might have been made without interest, on the principle, he supposed, that land-revenue not expended might, with propriety, be spent on the landowner from whom it was derived. But the principle was one that obviously could not be generally carried out. Those who borrowed should, as a rule, pay interest; and this being so, there was no need for the short periods in which under the old system these loans were re-payable. These short periods had, to a great extent, neutralized the value of the advance, because an agriculturist found himself obliged to repay the loan before he began to reap any advantage from the improvement effected. Now that a man would pay fair interest, there would be no need for any such hurry. It was far better that the people should borrow of Government than from their own countrymen on what in any civilized country would be regarded as exorbitant rates. It was a great duty to encourage saving, and to lead tenants, as well as landlords, instead of hoarding their savings, hiding them in a napkin, melting them down into ornaments, or burying them in the ground, to apply them as capital to reproductive purposes, in compliance with the sound principles of political economy.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF wished to say a few words on a measure which he cordially approved. It was fair, he thought, to credit the officers of the Irrigation Department with the credit of having started the system of Government advances for agricultural improvements. Thirty or forty years ago, canal officers had appreciated the wants of the country in this particular, and had inaugurated the system of advances which he was happy to see was now about to be made the subject of express legislative enactment. It was honourable, he thought, to the Irrigation Department thus early to have recognized and endeavoured to meet the wants of the people in so important a particular.

HIS EXCELLENCY THE PRESIDENT said—"I cannot allow the Bill to pass without expressing my satisfaction at the prospect of its immediately becoming law.

"Ever since I have been in India I have been most anxious that the system under which taccáví advances have for years been made, should be systematized and rendered more beneficial.

"I may say that one reason why I have taken such an interest in the matter as regards India, is that during a great part of my life I have been engaged either in legislation on cognate subjects, or in the direct working of similar laws to that which we are now passing.

"In Ireland a system of Government advances has been in operation for many years to the great benefit of the country. I may say for the satisfaction of my Hon'ble colleague, the Financial Member of Council, that the system has been carried on throughout the entire period of the famine without the smallest loss to the Government, as well as I recollect. From the last returns I see that the sum now advanced is considerably more than two millions, and the arrears of principal and interest amount to something like £550.

"The whole system works like clock-work, with great advantage to the country, and without the smallest risk of present or future loss to the State.

"In England, where it has not been thought necessary to establish a Government system of loans, many Acts of Parliament have been passed to enable private individuals and Companies to carry out almost the same system; and to Companies which make these loans, the same facilities for recovery and the same securities are given as the Government would have thought necessary to enact for its own loans.

"I happened to be connected little with a Company of that kind, and the result was precisely the same as in the case of the Irish Government loans.

"The sums of money negociated were exceedingly large, but the re-payments are made to the day, and I do not believe that the Company with which I was connected had ever to complain of having a single bad account.

"There are several other Companies of the same kind that have been engaged in the same transactions, and, with the exception of some which were not very well managed, the same satisfactory results have generally been obtained.

"It seems to me that such a system which has worked so well in other countries, and which is so well known and has been so long in existence in

India, must be an immense benefit to the country, and that if the local Governments take up this measure in the spirit that I have—no doubt they will—it will be found easy to establish a small and inexpensive organization for working the provisions of the Bill in case the district officers have not time to give to it due attention.

"I think in districts where the transactions may not be large, and where the system is well known, it may be found that the district officers can do all that is necessary; but in other districts, where numerous or large works may be desired, and the proprietors are willing to undertake them, that some small special organization may be necessary for a certain class of works, and that there will be no difficulty in arranging for their proper supervision and completion.

"There is only one other remark that I wish to make, and that is, that the Council will perceive the Bill is strictly limited to loans made for agricultural improvements.

"I have heard it stated that, by the passing of this Bill, the Government have announced their intention of withdrawing permanently advances for agricultural purposes that may not strictly come under the head of agricultural improvements. I can only say that this is not the intention of the Government, and it is possible that there still may be certain loans necessary, particularly under pressure of famine and distress, such as have been given in former years under the taccáví system, which it is absolutely necessary that we should make. There is nothing in this Bill to prevent this still being done.

"The whole object of the Bill is to put on a more systematic footing the system of loans for permanent agricultural improvements, which can have no other effect except that of adding permanently to the value of the land and increasing the value of the property.

"I commend this Bill to the attention and consideration of Local Governments, believing that it will not only have the effect of benefiting the people, but it will also bring the officers who are engaged in carrying out its provisions into a most agreeable contact with the people, and increase those kindly feelings which ought to exist between the rulers and the ruled."

The Hon'ble MR. STEPHEN observed, with reference to the observations which had fallen from His Excellency the Commander-in-Chief, that the principle of the Bill was by no means a new one. It had been recognized and

acted upon from the early days of the British administration. The present Bill was in fact a consolidation measure, and replaced parts or the whole of no less than ten Regulations which were scattered about the Statute-book in an inconvenient manner, and were, in some instances, not adapted to the present requirements of the country. The Bill asserted no new principle; it merely provided for working the old system more conveniently and efficaciously.

The Motion was put and agreed to.

The Hon'ble MR. STRACHEY also moved that the Bill as amended be passed.

The Motion was put and agreed to.

BENGAL REGULATIONS REPEAL BILL.

The Hon'ble MR. COCKERELL presented the Report of the Select Committee on the Bill for repealing certain enactments of the Bengal Code.

The Council adjourned to Thursday, the 12th October 1871.

H. S. CUNNINGHAM,

Offg. Secy. to the Council of the Governor General for making Laws and Regulations.

SIMLA,
The 28*th Sept.* 1871.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Simla on Thursday, the 12th October 1871.

PRESENT:

His Excellency the Viceroy and Governor General of India, K. P., G. M. S. I., *presiding*.

His Excellency the Commander-in-Chief, G. C. B., G. C. S. I.

The Hon'ble John Strachey.

The Hon'ble Sir Richard Temple, K. C. S. I.

The Hon'ble J. Fitzjames Stephen, Q. C.

The Hon'ble B. H. Ellis.

Major-General the Hon'ble H. W. Norman, C. B.

The Hon'ble F. R. Cockerell.

The Hon'ble R. E. Egerton.

His Highness Sarámade Rájáhác Hindústán Ráj Rájendra Srí Mahárájá Dhiráj Siváí Rám Sing Bahádúr, of Jaypúr, G. C. S. I.

CRIMINAL TRIBES' BILL.

The Hon'ble MR. STEPHEN moved that the report of the Select Committee on the Bill for the registra[illegible] Criminal Tribes and Eunuchs be taken into consideration. He sai[illegible] the Bill had been for some time before the Council, having been int[illegible] as long as a year ago; and that, as its provisions affected only the nor[illegible] States of India, there appeared to be no o[illegible] passing it in the Panj[illegible] of the provinces principally concerned, and the chief officers of which [illegible] members of the Council. The Bill had been considered with great attention, and it had in its present form substantially received the approbation of the various Local Governments to which it had been submitted. The Bill had several objects in view. It was unnecessary to dwell again on the unfortunate state of things at which it was levelled. In dealing with the matter the Committee had been alive to the fact that, in any measure of the sort, it was difficult not to confound the innocent with the guilty, and to avoid entrusting to unfit depositaries of power the means of exercising oppression. Still the object in view rendered it worthwhile to run some risk.

He might give the Council one or two instances which would explain the nature of the evil and the absolute necessity for legislation. A report had been received early in 1870, from the Superintendent of Operations for the Suppression of Thuggee and Dacoity, as to the habits and proceedings of one of the principal of the criminal tribes—the Meenas at Shajanpúr—from which he would, with the permission of the Council, read one or two extracts :—

"It is a fact that Shajanpúr is inhabited almost exclusively by Meena plunderers. As many as five hundred adult Meenas have habitation there, and distant robbery is notoriously their profession and their livelihood. Their houses are built of substantial masonry, some with upper stories to them and with underground passages; fine wells have been constructed at their own expense; the land they cultivate, and for which they duly pay revenue, yields no more than would be sufficient for a fourth part only of the population,—men, women, and children combined,—which the number of their adult males represents; they maintain fleet camels, some of which may be found secreted in their premises in readiness for an expedition, or but now arrived from some unknown raid. Cows, buffaloes and goats are among their possessions; they live amid abundance, and they want for nothing; their festivals of marriage and other ceremony, whether of joy or solemnity, are attended with lavish expenditure. Flesh is their food, and liquor their potation. Trinkets of gold and silver and fine dresses adorn, on pleasure days, the persons of their females. Gold and coral necklaces, earrings and good turbans, are the display of the men; bracelets and frontlets studded with various coins, the ornaments, and party-coloured garments the apparel, of their children. Music and every requirement without stint form the accompaniments of their feasts; revelling and quarrel mark their termination: plenty they have, plenty they spend, and plenty they bestow, and there is no end to their charity."

Another officer describes their villages thus by way of explaining the desperate and successful resistance which they were enabled to offer to the police who wished, on a particular oc[illegible]n, to arrest a criminal :—

"The Meena quarters of Shajanpúr [illegible]ed into plots, and round each of these is a thorn hedge, some twelve feet high, piled [illegible]osely to prevent passers-by from observing what is going on inside. Every plot contai[illegible] twenty or thirty houses, and round each of these again is a thorn hedge, with openings he[illegible] here to enable the inmates to escape into the adjoining premises in case search is being m[illegible] them."

A case which occurred at Ajmere sh[illegible]u the nature of the operations of these men and the impossibility of dealing with them satisfactorily under the present law. The Superintendent said :—

"Three gangs of Meenas, numbering in all fifty-seven men, were detected simultaneously quartered in different parts of that city with the connivance of certain members of the local police and of some chaprásis on the establishment of the Magistrate of the district according to the following account as furnished in the Dacoity Statements for British districts submitted by me in the Home Department :—'A large number of Meenas was

arrested at Ajmere by the local police in December of the year, the most of whom were convicted by the Deputy Commissioners of "unlawful assembly." They were examined soon after by the approvers of the Thuggee and Dacoity Department. At that time only a few of them were recognized, *the operations against the Meena tribe being then but new, and no more than two approvers as yet admitted;* but several of them have since been registered as dacoits. The men who composed these gangs were, at the time of their arrest, on an expedition of dacoity lower down the country. They had come down from Shajanpúr in the British district of Goorgaon near Delhi, and from the Ulwur and Jaypúr States, and had stopt at Ajmere for want of funds, intending to commit dacoity there by which to recruit them. They had already committed two dacoities in contiguous territory (the plunder in those robberies, Mr. Stephen observed, was valued at Rs. 24,000), and had marked down the house of a mahájan in the city of Ajmere which they would next have plundered but for their opportune arrest by the district police.'

"The Deputy Commissioner of the district sentenced the whole of these men to rigorous imprisonment for seven years, and they had been transferred to the Agra Jail to undergo that punishment, when the case was reviewed by the High Court at Agra upon petitions presented by three men of the local police force who had been convicted of aiding and abetting them. The Judges recommended the remission of the sentences of the entire number on the ground of wrongful imprisonment without any legal or sufficient evidence of guilt, which, after some further local enquiry, was complied with by the Government o[illegible] North-Western Provinces. Owing to our having then only recently taken up operations aga[illegible] Meenas, and to the acquaintance with Shajanpúr Meenas on the part of our two only [illegible]vers being very limited, the evidence which this Department was able to produce against [illegible] persons was of little moment, further than that all or nearly all of the arrested parties we[illegible] declared to be *Meenas*, and that several of them were *Meenas of Shajanpúr*. But the Police Constable[illegible] who conducted the Meena roll-calls and the Lambardár of Shajanpúr, were able to claim several of them as residents of that place, of whom they pointed out *five* to be Meena leaders, and three of these (Gara, Sadasookh and Sheolall) have since become known to us as important leaders, against whom several dacoities have been registered by members of the tribe since admitted as approvers.

"The Judges observed that the then recent *Fenian trials* in Ireland, held before a commission of three Judges, afforded examples of the course which ought to have been pursued in the present case, in which a large number of persons were similarly simultaneously charged with the same offence. The charge upon which the present prisoners were arraigned was *assembling and making preparation to commit dacoity*, and the Deputy Commissioner of Ajmere, who tried the case, considered that charge to have been fairly substantiated against them. But the Judges, on the ground that it had not been satisfactorily shown that all were *Meenas* (this fact Mr. Stephen observed was afterwards, according to the Superintendent, satisfactorily proved), and that it was not a crime to be a Meena, nor a proof of a crime, held that the mere fact of their being congregated in Ajmere and having some of them swords and others sticks, or a few camels and horses, was not sufficient for their conviction under the particular laws under which they and their abettors had been tried. By *making preparation* they considered that the Indian Penal Code intended something more than the mere *assemblage* of persons for the purpose of committing dacoity, and that proof was necessary of some *arming* or *equipment* for the special purpose of committing dacoity, or some other act besides *the mere assembling*,

having as its object the perpetration of dacoity, of which, in their opinion, there was no evidence, or that the different parties of Meenas had any common *felonious* object in assembling at Ajmere. An acquaintance with the habits of such criminals would have disposed me to reply to these observations that dacoits certainly *assemble* preparatory to committing dacoity; that, to preserve secrecy, they naturally conceal their weapons near the scene of the intended crime, or put them away somewhere they might be readily found; and that they are generally only *armed* when actually perpetrating the offence. And, further, that the fact of these men secreting themselves in different parts of a city *at so great a distance from their homes*, unable, when discovered, to give any satisfactory account of themselves, those who were recognized being ascertained to have changed their names, their castes and their places of residence, was of itself a fair proof of no *good* intention; and that, considered with the circumstance that it was well known that Meenas were habitual dacoits, *their being away from their homes in a body*, was a reasonable-enough proof of *felonious* intent when taken with the other circumstances under which they were detected."

Such was the state of things with which the Legislature had to deal—armed parties of criminals living in fortified villages, going about systematically to commit acts of violence. Could there be a doubt that Government was absolutely bound to deal expressly with such a case?

How then [illegible] they to deal with it? It was the rule of the Legislative Department [illegible] initiate measures of general administration,—and the department had [illegible] done so, and did not intend to do so, in the present instance; but this [illegible] report and other authorities, to which he (Mr. Stephen) had referred when the Bill was introduced, had called their attention to the fact that a great evil existed, and that the law was not only too weak to cope with it, but had actually put a stop to the measures, weak, though beneficial, as far as they went, which the Executive Government had devised for its suppression. Both in the Panjáb, Oudh and the North-Western Provinces, systems of registration and roll-call had been adopted; but, as the executive officers had no power to punish those who broke the rules imposed on them, and as the Courts, at least in the Panjáb, expressly declared such rules to be illegal, they broke down entirely, and the persons restrained by them were left at full liberty to pursue their habits of systematic criminality, and the result had been, as affirmed by the Local Government, a most serious and alarming increase of crime. It was easy enough to understand the feelings of bitterness which such mishaps occasioned on the part of executive officers zealous for the discovery and repression of crime towards the legal tribunals, who, in the discharge of their duties, pronounced the only means for effectually dealing with criminals to be illegal. Those feelings were an illustration of a general tendency of which he (Mr. Stephen) had noticed many forms in India, the existence of which appeared to him to be very unfortunate. He referred to a tendency on the part of the

executive officers, in whom the actual government of the country was vested, to dislike and suspect law and lawyers, as if there were something in the very nature of law by which executive vigour was rendered impossible. This was a great mistake. If the existing law was ill fitted for the state of society in which it existed, it ought to be altered. There was nothing in law as such to prevent executive officers from acting with whatever degree of vigour might be required by the general interests of the community. Indeed, nothing could possibly be more conducive to executive vigour than a distinct system of laws defining, in the clearest possible terms, the powers with which executive officers were to be invested. Such a system would be to the executive officer what precise orders would be to a soldier on active service. He would know where he was, and be free from doubt as to the legality of his conduct,—a doubt which might well paralyze the most vigorous. He (MR. STEPHEN) did not think that the Courts were to blame for the views which they were apt to take upon such subjects. No doubt they decided, according to their conscientious belief, as to what the existing law actually was, and this was, of course, their duty. The Legislature, if any one, was in fault. It was undoubtedly their duty to keep a careful watch upon the course of administration, and to give expressly to their officers, from time to time, such powers as were necessary for good government. The task, however, was one of the greatest difficulty and delicacy, and was also one in which rashness might be disastrous. The present Bill was an attempt to discharge it, in regard to this particular matter.

He would now shortly describe a few of the leading provisions of the Bill which had been settled with the greatest care in concert with the Local Governments of the provinces to which it extended. The Bill was divided into two parts,—one referring to criminal tribes, and the other to eunuchs. The part which related to criminal tribes had been very considerably altered since the introduction of the measure, in order to meet the views of the Local Governments. He (MR. STEPHEN) had originally proposed to confine the measure to tribes who had fixed places of residence during at least part of the year. The reason of this was that it appeared exceedingly difficult to deal with tribes which had no place of residence, but perpetually wandered. To prevent them from wandering might, in many cases, be equivalent to preventing them from earning their living; and it did not follow that, because a tribe of basket-makers or grain-sellers might occasionally, or even frequently, commit thefts, they were to be treated as a criminal class, who travelled about for the purpose of committing crime, and made their ostensible occupation a mere pretence for the purpose of enabling them to do so with more convenience. The tribes who were chiefly in the mind of the framers of

the Bill when it was introduced, were persons like the Meenas, of whose habits he (MR. STEPHEN) had already given a description. The Local Governments h[illegible] however, represented to the Committee that wandering gangs of crimin[illegible]ad both common and dangerous, and that few, if any, criminal tribes were [illegible]s were importance, or more urgently required the discipline which this [illegible]reater provide for them. The Bill had accordingly been so moulded as to a[illegible] would criminal tribes, whether they had or had not a fixed place of residen[illegible] all precautions had, however, been taken to prevent, as far as possible, [illegible]eful the very extensive powers which the Bill conferred. The secor[illegible]hird and fourth sections of the Bill provided in substance that, before a gang, tribe or class could be declared criminal, the Local Government should report the case to the Governor General in Council, detailing in their report their reasons for regarding the tribe as criminal, the nature of the crimes which it was suspected of committing, and if it was a wandering tribe, the reasons for supposing that any lawful occupation followed by it was a mere pretence for the purpose of facilitating the commission of crime. The report was also to set out the arrangements proposed to be made for enabling the tribe, when settled in any fixed place of residence, to earn its living therein. This report would not be liable to be enquired into by any Court of Justice, but it would remain amongst the records of Government, and might be produced at any time if oppression were found to result, so as to fix the responsibility of procuring a tribe to be declared criminal on those to whom it might properly belong.

If, on the consideration of the report, the Governor General in Council thought fit, he might authorize the tribe to be declared criminal. Thereupon, a register of its members would be formed under the orders of the Local Government, according to a procedure laid down in the Bill. Persons aggrieved by an entry therein would have an appeal to the Magistrate of the district, and his order might be reviewed by the Commissioner. If the tribe had no fixed place of residence, it could not be registered until the Local Government had made arrangements which the Governor General in Council considered suitable for enabling it to earn its living in the place in which it was to be settled, and no tribe, whether wandering or not, once settled in a fixed place of residence, could be removed to another, except upon similar conditions. Parts of tribes might be separately dealt with, so that their organization might be broken up, and the young instructed in better modes of life than their parents.

Criminal tribes, when registered, might be placed in either of two categories, according as the settlement in which they were placed was or was not declared to be a reformatory. If the settlement was not declared to be a reformatory, the

registered persons would simply be placed under a strict system of roll-call and passes. If the settlement was declared to be a reformatory, their labour would be superintended and regulated, care being taken that its surplus produce, after providing for their maintenance, should be applied for their benefit. Any registered person who was found in any part of British India might be arrested and returned to the appointed place of residence, and violation of the rules for the regulation of such places or of reformatories was punishable by fine, imprisonment and whipping. The duty imposed on village headmen and watchmen by the Bengal Regulations, to give notice of offences, was re-imposed in this Act, with regard to reporting the movements of registered persons. One part of the section empowering the Local Government to make rules, deserved special notice. It enabled them to make rules as to the inspection of the residences and villages of registered tribes, "and the prevention and removal of contrivances for enabling the residents therein to conceal stolen property, or to leave their place of residence without leave." The object of this was to prevent persons, like the Meenas, from evading the whole object of the Act by thorn hedges, underground passages, and the like.

The result of the whole of these provisions, taken together, would be to enable the Local Governments effectually to coerce and restrain from crime such communities as had been noticed.

The second part of the Bill—that relating to eunuchs—had been but little altered, and the revolting nature of the subject rendered him (MR. STEPHEN) most unwilling to say more about it than was absolutely necessary. He had, in his former speech upon the subject, stated the grounds on which the proposed measure rested. He had seen no reason to change the opinion which he then expressed, and the Local Governments consulted on the matter concurred in his views.

His Excellency the COMMANDER-IN-CHIEF said that it was impossible to listen to the interesting statement which had been made by the Hon'ble Mr. Stephen regarding this measure without much satisfaction,—a measure which, though apparently one of executive severity, it was really calculated to be of great benefit to large classes of the people of India who, though in a certain sense criminal, were yet wanting in one element of criminality, inasmuch as they were unconscious of the nature of their acts, having been educated to consider them as innocent, and trained from their earliest youth for the purposes of crime. Another advantage of such measures as the present was that they were a step in the direction of knowing what the people subject to our government were doing,—a branch of knowledge in which the Government had hitherto made very little advance. On the whole His Excellency would express his

entire satisfaction with the manner in which the subject had been treated by the Legislature.

The Hon'ble MR. EGERTON wished to add a few words to the remarks of his hon'ble friend Mr. Stephen on a subject which he (MR. EGERTON) considered as especially interesting and important. Most of the provisions of the Bill dealt with the case of adults, but there was one section which enabled the Local Governments to remove any part of a criminal tribe and to locate it in a reformatory settlement, and he earnestly hoped that this provision might be enforced for the purpose of establishing reformatories for the youths of criminal tribes, who were at present trained from their earliest years in habits of theft and violence. No one who had had to do with the police execution of a district could fail to know how deeply inbred in certain classes of the population these lawless habits were, and how impossible it was for a child, so unfortunately circumstanced, to break away from the traditional habits of the community in which it was born. These children were brought up to look upon theft as an honourable duty, and as a matter of daily occurrence. The Sonorias, for instance, were a wandering tribe, of which the children were systematically trained for, and employed in, practices of theft. The skill and intelligence of the children were very remarkable, and it was a pity that they should not be utilized for right and useful purposes instead of being directed to mischievous and depraved ends. If the State exercised a wholesome severity on the one hand, it was only right that, on the other, it should extend the opportunity of improvements to every class of its subjects. MR. EGERTON approved also of the measures by which village headmen and watchmen were made, to a certain extent, responsible for the maintenance of public order. He knew by experience what valuable aid they could give in the discovery and repression of crime, and how successfully they could baffle the proceedings of the police, if they chose. It was a wise policy to put their responsibility in this important particular on a legal footing.

The Motion was put and agreed to.

The Hon'ble Mr. Stephen also moved that the Bill as amended be passed.

The Motion was put and agreed to.

EXTRADITION BILL.

The Hon'ble MR. STEPHEN, in moving for leave to introduce a Bill to consolidate and amend the law relating to offences committed in foreign States, said that the object of the Bill was to consolidate the existing laws on the subject, and to amend them in several important particulars, in which they

were at present defective, as well as to give the express warrant of law to certain executive measures which had been taken in connection with the subject. Considerable dissatisfaction had been occasioned to Native allied Princes by these deficiencies of the law, which it was now intended to remedy. The Bill involved several questions of a delicate and difficult nature, which he would defer touching upon till the Bill was introduced.

The Motion was put and agreed to.

EUROPEAN VAGRANCY ACT AMENDMENT BILL.

The Hon'ble MR. STEPHEN presented the report of the Select Committee on the Bill to amend the European Vagrancy Act, 1869.

NORTHERN INDIA CANAL AND DRAINAGE BILL.

The Hon'ble MR. EGERTON presented the report of the Select Committee on the Bill to regulate the construction and maintenance of Public Works for Irrigation, Navigation and Drainage.

The Hon'ble MR. COCKERELL, having obtained the permission of His Excellency the President to make a few observations in regard to the presentation of the report, said:—"My Lord,—I do not wish to raise any discussion on the merits of the Bill to which this report relates, as it is not now before the Council. My object in asking leave to say a few words on the present occasion, is simply to deprecate the apparent intention of proceeding to the consideration of this report and the passing of the Bill, which the presentation of the report at this time seems to indicate, whilst the Council holds its sittings at Simla, and to express the hope that that intention will not be persevered in.

"I am not unmindful of the fact that a change of title and the proposed restriction of its immediate local extent, have given to the Bill the external appearance of a purely local measure. I do not forget the presence in the Council, during its sittings at this place, of the head of the Panjáb Government and the chief revenue officer of that province, nor do I presume to underrate the very great and peculiar advantages which the consideration of a measure of this kind must necessarily derive from their presence. I anticipate and admit all that can be said by the advocates of no further delay in this matter in favour of prosecuting to completion the enactment of this Bill ere the Council adjourns. But, nevertheless, I venture to express a very decided opinion that

the attempted assertion of the principles which govern some of the most important provisions of this Bill is calculated to give an effect to the measure which must reach far beyond its nominal local extent, and thus takes the Bill altogether out of the category of mere local enactments; and I say that, whether regard be had to that effect, or to the circumstances under which the Bill was originally introduced, and the loud protests and expressions of disapprobation which the enunciation of those principles then drew forth from many eminent public officers, it will be unwise and impolitic to press on the enactment of such a measure at a time and place where the only semblance of the representative element which this Council possesses, I mean the presence of those non-official members who as British subjects are amenable to the laws which they aid in enacting, is necessarily wanting.

"My Lord, if I stood alone in the strong objection which I entertain to the principles which it is proposed to affirm by the enactment of this Bill, I should feel great hesitation in urging my present point against what I believe to be the views of the majority of my colleagues. But when the strongest opposition to the assertion of those principles has been repeatedly expressed in what I conceive to be unanswerable language by the ablest and most experienced revenue officer in India—the Lieutenant-Governor of the North-Western Provinces; when I know that the same strong objection was felt by at least two of our colleagues, now absent, who took a most active part in the consideration and discussion of some of the details of the Bill during its early progress in committee at Calcutta—gentlemen whose long standing in the public service, varied experience, and especial familiarity with the working of canal irrigation,—the blessings which, when wisely regulated, it can confer on the people, and the no less certain evils which an inefficient or indiscreet management of it carries in its train,—necessarily entitle their opinions to mature consideration; under such circumstances, I do feel justified, my Lord, in appealing to Your Excellency and the members of Your Excellency's Government as strongly and earnestly as I can, to allow the further progress of this measure to be stayed until the Council meets in Calcutta.

"If the imposition of such altogether novel and peculiar taxation as is aimed at by this Bill is to be allowed by an enactment of the Legislature, then, my Lord, I submit that it should be done with all the emphasis and appearance of deliberation that a full assembly of the members of Your Excellency's Council for making Laws and Regulations in the capital of the empire, and specially the presence in that assembly of that important constituent part of the Council to which I have just referred, can give to the proceeding.

"It is just three years since, in this place, I made a similar appeal to Your Excellency's predecessor to defer, under like circumstances, the adoption of that curious piece of legislation—the Panjáb Tenancy Act. And I believe that I am justified in saying that much of the dissatisfaction with which that enactment was received by the public, was undoubtedly due to the manner in which it was hurried through the Council, and to the fact of its having been passed at Simla."

The Hon'ble MR. STRACHEY said that his hon'ble friend's observations appeared to him very irregular, and certainly had not carried out his promise of not raising a discussion. The fact was that the question raised by Mr. Cockerell was nothing short of this—should or should not the Bill be taken into consideration at Simla? It was impossible to go into this question without discussing the whole policy of the Bill, which he (MR. STRACHEY) had no intention of doing. With regard to Mr. Cockerell's somewhat sensational appeal to the public, he would state what the plain truth of the case was. Some years ago the Panjáb Government had come to the Government of India for a Canal Bill, which it was said was urgently needed. It was then proposed to extend the measure to the whole of Upper India. Afterwards difficulties, which he (MR. STRACHEY) on a recent occasion explained to the Council, had arisen in doing this, and it was accordingly determined to revert to the original plan and legislate for the Panjáb alone. So far from the Government of India having had any special desire to adopt this course, it was, as he was sure the Lieutenant-Governor would testify, the earnest wish of the Panjáb Government for this Bill that had led to its being now proceeded with; and as the Bill was now a strictly local one, and as the Lieutenant-Governor, the Financial Commissioner, and other officers of local experience were present to assist the deliberations of the Council on the subject, it seemed to him only a natural and proper course to proceed with it while the Council was sitting in the Panjáb—at Simla—rather than at Calcutta, when all these advantages would be wanting.

His Excellency THE PRESIDENT said:—"Before this Bill is taken into consideration at its next stage, the observations of the Hon'ble Mr. Cockerell will receive the attention of the Government. But I must at once take exception to a view which is suggested by the hon'ble member's remarks, and which ought not to pass unnoticed,—the view that certain measures cannot be discussed and disposed of by this Council with equal and even more advantage at Simla than at Calcutta. The Bill before us is one which affects the Panjáb, and the Panjáb alone; the necessity for it is strongly urged upon the Government by all the local authorities. Members of this Council, who

are also members of the Panjáb Government, and therefore most competent to advise upon the subject, are present; these gentlemen cannot, from the nature of their official duties, attend at Calcutta. It appears to me, therefore, that the present is the most fitting time, and Simla the most fitting place, for discussing this measure.

"It is not fair to assume that measures which are considered fit for the Panjáb must necessarily, in consequence, be considered suitable in all their details for every other part of the empire. Canál Bills for other provinces will be discussed and settled on their own merits, with reference to the wants of the particular case and to the opinions of the local authorities. As a matter of principle, the Government has long since declared its opinion in favour of a compulsory rate to be levied under fixed conditions and certain well-defined limitations. I believe the principle asserted by the sections forty-four, &c., to be, not only sound and useful, but absolutely essential to the success of those great schemes of irrigation by which alone large portions of the country can be preserved from periodical famines, and the country permanently enriched; but, because the Council adopts that opinion and applies these clauses to the Panjáb, it does not necessarily follow that all the details now provided will be necessarily applied in future legislation to other parts of India. Such an assumption is without foundation. This sound principle may be applied in other forms and by other means.

"With regard to this particular Bill, looking to the history of past attempts at legislation on the subject; to the absolute necessity which exists for legislation of some sort; to the advantage the Council enjoys in the presence of officials of experience and authority connected with the administration of this province,—I think that the Government have adopted a wise course in dealing with the Bill here, and in declining to run the risk of another year's delay, simply because gentlemen connected with other parts of the country, and who have no particular and special knowledge of the Panjáb, do not happen to approve a measure which the officials best acquainted with this province regard with approval and satisfaction. I repeat that this Bill is not to be taken as laying down an absolute and unalterable formula for the whole of India, but is to be considered on its own merits as affecting the Panjáb; and it seems to me that the Panjáb is the place in which such a measure can be best disposed of."

His Excellency THE COMMANDER-IN-CHIEF said:—"I believe that this is not the occasion on which the Bill can be properly discussed, nor is it my intention to do so. But I wish to state at once, since His Excellency the President has expressed his approval of the sections relating to the compulsory rate

on irrigable lands, that I am forced to regard them with the utmost regret, and that I sympathise with the opinions expressed by the Hon'ble Mr. Cockerell. I refrain from any discussion, but I think it right to take this opportunity of letting my views be known."

The Hon'ble MR. ELLIS suggested that the proper course would have been for the Hon'ble Mr. Cockerell, if he objected to the passing of the Bill at Simla, to wait till the motion for taking the Bill into consideration was made and then to move as an amendment that the consideration of it should be deferred till the return of the Council to Calcutta. At present there was no motion before the Council, and the hon'ble member was therefore out of order in remarking on the Bill.

The Council adjourned to Thursday, the 19th October 1871.

H. S. CUNNINGHAM,

Offg. Secy. to the Council of the Governor General for making Laws and Regulations.

SIMLA,
The 12th October 1871.

Office Supdt. Govt. Printing.—No. 6354 L. D.—23-11-71.— 200.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 *&* 25 *Vic., cap.* 67.

The Council met at Simla on Thursday, the 19th October 1871.

PRESENT:

His Excellency the Viceroy and Governor General of India, K. P., G. M. S. I., *presiding.*

His Excellency the Commander-in-Chief, G. C. B., G. C. S. I.

The Hon'ble John Strachey.

The Hon'ble Sir Richard Temple, K. C. S. I.

The Hon'ble J. Fitzjames Stephen, Q. C.

The Hon'ble B. H. Ellis.

Major-General the Hon'ble H. W. Norman, C. B.

The Hon'ble F. R. Cockerell.

The Hon'ble R. E. Egerton.

His Highness Sarámade Rájáháe Hindústán Ráj Rájendra Srí Mahárájá Dhiráj Siváí Rám Sing Bahádúr, of Jaypúr, G. C. S. I.

EUROPEAN VAGRANCY ACT AMENDMENT BILL.

The Hon'ble MR. STEPHEN moved that the report of the Select Committee on the Bill to amend the European Vagrancy Act, 1869, be taken into consideration. He said that the Council was aware that the object of the Bill was to deal with the case of grooms arriving in this country from Australia in charge of horses and becoming chargeable to the State as vagrants. The European Vagrancy Act of 1869 did not fully meet the case, and the section now added would, it was hoped, make evasion of the law impossible. Some valuable suggestions had been received from the Advocate General as to the ingenious modes in which the legal obligations imposed by the Act could be shirked; and, in accordance with his advice, definitions had been inserted in the Bill, the effect of which would be that the responsibility in every case should be brought home to some one or other.

The Motion was put and agreed to.

The Hon'ble Mr. Stephen also moved that the Bill as amended be passed.

The Motion was put and agreed to.

INDIAN WEIGHTS AND MEASURES OF CAPACITY BILL.

The Hon'ble Mr. STEPHEN presented the report of the Select Committee on the Bill to regulate the Weights and Measures of Capacity of British India.

LAND-REVENUE PROCEDURE (PANJÁB) BILL.

The Hon'ble MR. STEPHEN also presented the report of the Select Committee on the Bill for consolidating and amending the law as to land-revenue procedure in the Panjáb.

BENGAL REGULATIONS REPEAL BILL.

The Hon'ble MR. COCKERELL moved that the report of the Select Committee on the Bill for repealing certain enactments of the Bengal Code be taken into consideration. He said that he did not think that he should be justified in taking up the time of the Council with any lengthened explanation of the details of a measure of this kind.

The propriety and expediency of the repeal of an enactment on the ground that it had become obsolete, or that its retention in the present state of things was unnecessary, could only be determined after a thorough investigation of its contents. Hence it followed that the Council, when asked to accept the conclusions of this report, had necessarily to take much upon trust, and thus a more than ordinary responsibility rested upon the Select Committee in dealing with the subject of the present Bill.

In this view of the matter the proposed repeals had been weighed with extreme care and deliberation, and he (MR. COCKERELL) could affirm with that confidence which a long study of the subject of the Bengal Regulations in some measure enabled him to express, that the proposals contained in the Bill, as amended, erred rather on the side of over-caution.

The plan of the original Bill comprehended the complete expurgation of all obsolete or unnecessary matter from the Bengal Regulations, and for this purpose two schedules were framed,—the one providing for the entire repeal of the surviving or previously unrepealed provisions of wholly obsolete Regulations, the other comprising the repeal only of obsolete parts of Regulations.

The object of this measure was of course to simplify by reducing to the smallest possible compass the operative law contained in the Regulation Code.

In the opinion of some of the local authorities the difficulties attending the ascertainment of that law would be rather increased than diminished by the repeal of mere fragments of Regulations. Without assenting to this view they proposed to omit the schedule of partial repeals, and this course had been more readily adopted in consideration of the prospect which they now had of an early consolidation of most of the surviving Regulations.

The Regulations which would remain on the Statute-book after the passing of this Bill, and a cotemporary measure which provided for several further repeals, related for the most part to the assessment and collection of land-revenue, and the codification of the entire law on this subject had been greatly simplified by the experience gained through the progress already attained in the framing of a similar Act for the Panjáb. For it had been clearly demonstrated that the operative substance of the numerous bulky and complicated enactments which represented the existing law on this subject, was capable of being reduced to a single Act of extremely moderate dimensions, and this without the sacrifice of anything which it would be desirable to retain.

After the completion of the process of consolidation of such of the Regulations relating to land-revenue, police and other subjects as were susceptible of being re-enacted in a more concise form, there would remain only a list of from thirty to forty Regulations of most of which the practical value was rather that of an historical record of rights and privileges conceded by former legislation than of a constituent part of the existing operative law.

MR. COCKERELL had only to add that he thought some acknowledgment on the part of the Committee was due to Mr. Field of the Lower Bengal Civil Service for his valuable criticisms on the subject of this Bill. A full investigation and review of the schedules of the original Bill involved, no doubt, a degree of labour which experienced officers with their many and more pressing duties had been unable to give to this matter; and, speaking generally, the assistance given by the local authorities to the determination of the proposed repeals, had been somewhat meagre. Mr. Field's paper on the subject forms a marked exception to this general absence of co-operation. Having been engaged for a long time in the compilation of a new edition of the extant Bengal Regulations,—a work which, if there was no early prospect of consolidating what remained of those enactments, would be very much needed,—he had necessarily acquired that familiarity with the subject which rendered his paper of very great value in the settlement of the contents of the schedule.

The Motion was put and agreed to.

The Hon'ble Mr. Cockerell also moved that the Bill as amended be passed.

The Motion was put and agreed to.

INDIAN CHRISTIAN MARRIAGE BILL.

The Hon'ble Mr. Cockerell introduced the Bill to consolidate and amend the law relating to the solemnization in India of marriages of persons professing the Christian religion. He said that he might remind the Council that this was one of the several consolidation measures for the introduction of which leave was obtained about a year ago.

The delay in the preparation and introduction of the Bill had been due mainly to the great pressure of business in the Legislative Department during the last year.

The Bill provided for the collation into one enactment of the provisions of the Statute 14 & 15 Vic., cap. 40, and the Indian Acts V of 1852 and V of 1865, with such alterations of wording and arrangement as were incidental to the process of consolidation. It further comprised three substantial amendments of the existing law.

At the present time, only Act V of 1852 extended to the territories of Native Princes in alliance with Her Majesty, and he (Mr. Cockerell) apprehended that there was great doubt as to the validity of a marriage solemnized between the Christian subjects of Her Majesty in Native States otherwise than in the presence of a Marriage Registrar appointed under that Act, even if the marriage was solemnized by an ordained clergyman of any of the established churches, and in conformity with the ceremonies and customs of such churches.

The Bill would remove this doubt by extending the entire law relating to Christian marriages to Native States in alliance with Her Majesty.

There was also some ambiguity in the provisions of the existing law as to the submission of returns of marriages solemnized between Native Christians. For statistical purposes the Indian Government was required to transmit to England the returns of marriages solemnized between British subjects who, though resident in this country, retained their English domicile; and, to meet this requirement, the law obliged persons registering Christian marriages to submit with regularity the returns of such registrations.

The wording and arrangement of the provisions of the existing law relative to this obligation, did not clearly indicate its intended extent. There had been from time to time, since the passing of the Act of 1865, various references to the Local Governments on the subject, and the orders passed thereon did not evince a uniform interpretation of the requirements of the law on the part of the executive.

The Bill laid down clearly the rule that the returns of marriages between Native Christians howsoever they might have been solemnized, were not required.

The most important amendment proposed in this Bill was in regard to marriages between Native Christians, either of whom was a minor. The framers of the present law, actuated by the desire of making the forms of marriage between Native Christians of the poorer and uneducated classes as simple and inexpensive as possible, dispensed with all notices, and required only that the persons intending marriage should be of a certain specified age,—which, in the case of both male and female, was considerably below that which constituted majority even amongst the natives of this country,—and that they should not stand in relation to each other within the prohibited degrees of consanguinity and affinity—apparently as prescribed by the English Canon, though this is not specified.

The practical effect of this was to deprive Native Christian parents of that controul over the action of their children in the very important matter of contracting marriages which the law or custom gave to parents of all countries and creeds. He ventured to think that this result of the enactment of Part V of Act V of 1865, must have been overlooked, and he should say that he entirely sympathized with the Reverend Kristo Mohun Bannerjee and several other leading gentlemen of the Native Christian community who had memorialized His Excellency on the subject, pointing out the extreme hardship inflicted on them by the legislation referred to.

He (Mr. Cockerell) thought that they had a substantial grievance, and were entitled to a remedy. Whether the proviso to section fifty-four of the Bill gave the required relief in the best form that could be desired, he was not prepared to say. The provision had been inserted tentatively, and might be found to need much alteration when the Bill went before a Select Committee. It was intended to restore the power of controul of which Native Christian parents had been deprived by the present law without introducing the use of notices

and forms unsuited to the poorer and uneducated classes, and which it was the especial object of past legislation to avoid.

He had introduced this Bill to effect its early publication, but he did not propose to move its reference to a Select Committee until the Council met in Calcutta.

The Hon'ble MR. STEPHEN observed that it was an illustration of the real importance of the consolidation measures to which so much of the attention of the Legislature had been of late directed, that all the difficulty to which his hon'ble friend had referred in connection with Christian marriages, had been produced by the manner in which the Acts now about to be consolidated was pieced together, and by the uncertainty which arose from the cross references to one another contained in them. The grievance to which his hon'ble friend had alluded would not, of course, admit of discussion, and the present measure would, it was believed, provide a suitable remedy. In other respects it was entirely a measure of consolidation.

CIVIL COURTS (OUDH) BILL.

The Hon'ble MR. COCKERELL, with the permission of His Excellency the President, presented the report of the Select Committee on the Bill to consolidate and amend the law relating to the Civil Courts in Oudh.

The Council adjourned to Thursday, the 26th October 1871.

H. S. CUNNINGHAM,

Offg. Secy. to the Council of the Governor General for making Laws and Regulations.

SIMLA,
The 19*th October* 1871.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Simla on Thursday, the 26th October 1871.

PRESENT:

His Excellency the Viceroy and Governor General of India, K. P., G. M. S. I., *presiding.*

His Honour the Lieutenant Governor of the Panjáb.

The Hon'ble John Strachey.

The Hon'ble Sir Richard Temple, K. C. S. I.

The Hon'ble J. Fitzjames Stephen, Q. C.

The Hon'ble B. H. Ellis.

Major General the Hon'ble H. W. Norman, C. B.

The Hon'ble F. R. Cockerell.

The Hon'ble R. E. Egerton.

PANJÁB REGULATIONS' BILL.

The Hon'ble MR. STEPHEN presented the Report of the Select Committee on the Bill for declaring what laws are in force in the Panjáb.

NORTHERN INDIA CANAL AND DRAINAGE BILL.

The Hon'ble Mr. EGERTON moved that the Report of the Select Committee on the Bill to regulate the construction and maintenance of public works for irrigation, navigation and drainage be taken into consideration. He said:—"This Bill has been for a long time under consideration. The details of it have been very fully discussed in former years. It has again been very carefully examined this year at Simla, and is proposed to be made applicable to the Panjáb only, instead of to the whole of British India. The Panjáb Government submitted in 1867 a draft Bill and rules for the regulation of natural water-supply and water-works, intended for the Panjáb and for the presidency generally. It was found that Act VII of 1845, and the rules drawn up under it, were insufficient to meet the circumstances which had then arisen, owing to the rapid extension of irrigation and the introduction of more regular legal procedure.

"The draft submitted by the Panjáb Government was much amplified by Colonel Strachey. It was re-arranged and some new subjects were added, and

a draft Bill, called the Northern India Canal and Drainage Bill, was circulated for opinion in 1868.

"The result of the enquiry then made was, that an amended draft was prepared and introduced in 1869, which it was proposed to make applicable to the whole of Northern India and the Central Provinces.

"From September 1869 to the present time, the Bill has been before the Select Committee. Much difference of opinion regarding some of the provisions of it has been expressed, and the result has been that the progress of the Bill through the Council has been delayed, although it was well known that an amended law was required for the Panjáb four years ago. As it appeared that further delay would result if the Bill remained applicable to the North-Western Provinces, the Panjáb, Oudh and the Central Provinces, and as His Honour the Lieutenant-Governor of the Panjáb agreed generally to the provisions of it and wished to have it enacted without delay, the Committee have made the Bill applicable to the Panjáb only.

"I will now proceed to review briefly the provisions of the Bill under consideration. In the preamble, the right of Government in all lakes, rivers, streams and other natural drainage channels is asserted. This is a right which Native Governments held and exercised; which we have ourselves exercised since annexation, and which it is necessary to assert in order that Government may be able to use the natural water-supply for the public benefit in the best manner.

"If a law of this kind is enacted without some express declaration of the rights of Government, there is danger, I think, that, hereafter, it may be held that Government has waived the rights which it did not assert. The laws relating to irrigation in those countries of Europe where irrigation is controlled by the State, declare the rights of Government in sources of water-supply, and there is good reason for our following the same course here, where the Government holds a similar position.

"Part II of the Bill provides the manner of applying a water-supply for public purposes, and for compensating persons who suffer loss.

"The principle is fully described in section eight. The matters for which compensation may be given and those which are excluded, are defined. Compensation is given where works which have been constructed for utilizing the water-supply are rendered less useful, or are permanently stopped, by the action of Government, but not for natural advantages arising from proximity.

Section number eight provides a clear rule for calculating the amount of compensation where the market-value cannot be ascertained, and it bars the acquisition of new rights to compensation, except by grant or prescription.

"This part of the Bill is of great importance. There are many new canals, either under construction or projected, in the Panjáb. Unless the principles on which the rights which may be affected by the construction of new canals are defined, it is impossible to make an estimate of the financial results of making them.

"The Deputy Commissioner will make the awards of compensation under this chapter by a procedure similar to that prescribed in the Land Acquisition Act, 1870.

"Part III of the Bill provides, in sections fourteen to thirty, powers in regard to making surveys; entering upon lands in case of accidents; constructing and maintaining works of public convenience connected with canals; and constructing and maintaining water-courses and obtaining land for this purpose. These matters are necessary, and the provisions of the Bill in regard to them are appropriate. Section twenty-eight provides that, when land is taken up for a private water-course, compensation may be given, in the form of a rent-charge, or it may be taken up permanently, at the option of the person to be compensated.

"Sections thirty-one to thirty-three contain the terms on which water is to be supplied from a canal by Government. The Bill states the conditions which must be included in all rules or contracts made by the Local Government.

"Power is given to the canal officer to stop the admission of water into a water-course for the purpose of executing any work, and when the water-course is not kept in proper repair.

"Claims for damages caused by stoppage of water, beyond claims for remission of the water-rate, are barred as against Government in certain cases specified in clause (*b*).

"In other cases, compensation may be awarded, clause (*c*).

"In clause (*d*), claims for continuance of supply are barred.

"In clause (*e*), the conditions of sub-letting and transfer are stated.

"In clause (*f*), Government is protected against the growth of prescriptive rights to a supply of water.

"These conditions have been framed with a view to enable Government to make the best use possible of the water of a canal. It is necessary that Government should have full power to distribute the water of a canal in the manner which will be most beneficial to the persons who can use it, and for this purpose the Government must be protected against claims, or the growth of prescriptive rights, which will impede its action.

"Sections thirty-three to thirty-five declare the liability to charges for unauthorized use or waste of canal water, and provide for due realization of rates on lands held jointly.

"In sections thirty-six to forty-three, the water-rates on irrigated lands are defined.

"They are two:

1, the *occupier's rate*, which is paid by the cultivator for the use of canal water, and which is part of the immediate cost of cultivating the land;

2, the *owner's rate*, which represents the enhanced value of the share of the produce to which Government is entitled as land-revenue, but which, in the case of land irrigated from a Government canal, as it is entirely due to the water, should be considered a water-rate.

"The *occupier's rate* is the ordinary canal water-rate which has always been levied.

"The *owner's rate* is a new one.

"It has for some years past been levied in the Panjáb on the Bárí Doáb Canal, and is there called water advantage rate. It is fixed by the settlement officer in communication with the canal officer, and is levied from lands actually irrigated, along with the usual water-rate.

"It originated in the Panjáb from a proposal of the Settlement Commissioner, Mr. E. Prinsep, and his letter detailing the manner of imposing it will be found at page 167 of the volume of papers on this Bill.

"The advantage of the water advantage rate, or owner's rate, is that, instead of an assessment at canal irrigation rates being fixed for certain lands under irrigation at settlement, and kept on those lands during the whole term

of settlement, whether they are irrigated or not, the rate is levied at each crop on the land actually irrigated for that crop; so that, not only does the assessment fall on the land which should pay it, but, if any increase or decrease in irrigation takes place, the Government either receives enhanced revenue or the people receive a fair reduction in the demand.

Sections thirty-nine to forty-one declare who shall be liable for the owner's rate in certain cases.

"No owner's rate will be imposed on lands assessed to land-revenue at canal irrigation rates, until a reduction has been made in the land-revenue demand equivalent to the enhanced rate; during the currency of a settlement, the whole sum demandable as owner's rate is not to exceed the sum so reduced, and the owner's rate is limited to one-half the increase in the nett annual value of the land produced by canal irrigation. The provisions regarding the owner's rate are in accordance with what already exists in the province, and provide for the assessment of the revenue in future on a just principle.

"Sections forty-four to forty-nine—'Irrigable, but not Irrigated.' These sections form part of the Bill introduced in 1869; but they now stand very much modified. The conditions under which a special rate may be applied are so strict, and the power conferred on the Local Government is so large, that I think it very difficult to make the provisions applicable to any canal. In the Panjáb, where the demand for water is very great, there will never, I think, be occasion to apply those sections to any canal.

"Section fifty—'Percolation.' This section enacts, in a modified form, rules made under Act VII of 1865, but makes the power to levy a water-rate conditional on the advantages received.

"Sections fifty-one to fifty-three provide for the collection of canal dues in the same manner as land-revenue.

"Part IV of the Bill relates to navigation.

"There is at present no water carriage on any of the Panjáb canals. On one of them, the Bárí Doáb Canal, it is intended to provide locks, and the works have been constructed with a view to making the canal navigable hereafter. Provision has been made for making rules to regulate navigation, and for collecting the Government dues on vessels which ply on the canal and on goods conveyed in vessels or stored in Government premises during transit.

"Part V of the Bill relates to drainage.

"It gives powers to canal officers to remove obstructions to drainage, and to the Local Government to order new drainage projects to be undertaken and carried out, and gives power to levy a rate on lands benefited by such works to defray the cost of such drainage work under certain conditions.

"The provisions of this chapter are very necessary.

"The drainage of lands adjacent to the Western Jumna Canal is very defective, and the health of the inhabitants of large tracts of country in the Karnál and Delhi Districts is injured, and the productive power of the land diminished, by obstructions which it is difficult under the existing law to remove.

"On some of the Panjáb rivers, especially on the Indus, it is necessary to construct protective works to guard the heads of the inundation canals and to protect the lands exposed to inundation.

"The provisions of this chapter will apply to works constructed for the above-named purposes.

"Part VI relates to the mode of obtaining labour, when ordinary labour is not procurable, for the purpose of repairing canals in case of accident or apprehended danger, and for effecting the clearances necessary for the proper flow of water in canals. The provisions of this chapter may seem arbitrary to those who are not acquainted fully with the circumstances of the canals of the Panjáb and with the customs of the people who use them for irrigation.

"Where ordinary labour is procurable, no canal officer would ever employ labour of any other kind. The trouble of managing impressed labourers is great, and the work they perform is generally less than that done by ordinary labourers.

"The power which this chapter of the Bill confers will be exercised, in the portions of the country which are thickly populated, only in case of sudden emergency arising; for there, labour is procurable without difficulty for all ordinary purposes. But in the parts of the country which are sparsely peopled, and where inundation canals are used, it is necessary to call out the people to effect the ordinary silt clearances, to make new heads to the canals, and to perform such other emergent work as is required to keep these canals in working order. Silt clearance is a work which must be done in a limited time. It requires, therefore, the employment of a large number of labourers for a short period; conditions which are most unfavourable to the execution of such work in thinly populated tracts.

"We found this system at work when we annexed the Panjáb, and we have rules which have the force of law under the Indian Councils' Act to carry out the system. The cultivation of a large tract of country depends on the maintenance of these canals, and the people themselves assent to the necessity of procuring labour in this manner. There is nothing, therefore, really harsh or arbitrary in this chapter when the conditions of the country and the importance of irrigation are considered.

"The Canal Report for 1868-69 shows that 574,297 labourers were present for silt clearance on the Satlej and Chináb Inundation Canals in the Multán and Montgomery Districts. The value of the labour of these men was rupees 2,15,460, and the fines levied for non-attendance amounted to rupees 42,000. The canals on which this labour was expended irrigated about 200,000 acres of land, in a part of the country where the rain-fall is about three inches per annum, and where the population is not more than eighty-one per square mile. In the district of Muzaffargarh, where the canals are not under Government management, a similar system of statute labour for canal clearances is carried out by the people themselves under the control of the Deputy Commissioner, without the least difficulty or complaint. The object of the provisions of chapter VI is to confer such power as may enable Government to enforce the system which the people themselves have found it necessary to adopt, and which is at present the only practicable one for maintaining irrigation in some parts of the country.

"Chapter VII of the Bill provides for jurisdiction in certain cases.

"Section seventy-three makes the order of the canal officer final in disputes regarding distribution of water for the time when any crop is in the ground. The disputants may try their suit in the Civil Court in order to determine their rights for the future; but it is better to give the power of deciding such cases summarily to the officer who has the control of the canal, and who can give immediate effect to his orders, than to refer the parties to a Court whose decision must be less speedy, and which cannot give direct and immediate effect to its own decree.

"Part VIII of the Bill relates to offences and penalties, and confers powers on the Local Government to frame rules for carrying out the provisions of the Act. These do not call for any special remark. I may mention that I have received from Colonel Crofton—the Chief Engineer of Irrigation Works in the Panjáb, who drafted the first Bill which was sent up by the Panjáb Government, and who is one of the most distinguished officers of the Irrigation Department in India—an expression of his approval of the Bill as it now stands. The

opinion of an officer of such wide experience and of such impartial judgment gives me good reason to hope that the Bill will meet the requirements of the country, and I trust it may be passed."

The Hon'ble Mr. COCKERELL moved, as an amendment, that the Bill be re-committed to the Select Committee with instructions to report again thereon in two months. He said :—"I have been compelled to dissent altogether from the conclusions arrived at by my colleagues on the Committee by which this Bill has been considered, because, in my humble opinion, the course which has been adopted in regard to it is extremely unsatisfactory.

"The Bill was introduced into the Council in February 1870, and was then intended to apply to the whole of Northern India, including Oudh and the Central Provinces. At the time of its introduction, some of the more important provisions received marked attention, and the principles on which they were based were assailed by certain members then present. For various reasons, to which it is unnecessary to refer particularly further than to say that the delay was in no respect due to any opposition on the part of any members of the Select Committee as then constituted, no progress was made in the consideration of the Bill until the Council resumed its sittings at Calcutta towards the close of last year.

"At that time the opportunity for a discriminate consideration of the somewhat intricate and novel details of the Bill, and the elaboration of a sound enactment on this subject, was peculiarly favourable, for the Select Committee had been greatly strengthened by the addition of two new members—the Hon'ble Messrs. Inglis and Robinson—who possessed a thorough acquaintance with the practical working of irrigation and the administration of the canal departments in the Panjáb, the North-Western Provinces and the Madras Presidency.

"Early in the present year, the Select Committee commenced its labours, and I know of no reason for their not resulting in the presentation to the Council, and eventual passing into law, of a well-considered measure applicable to the whole of Northern India, ere the sittings of the Council in Calcutta were brought to a close, had the conduct of the Bill through Committee been judiciously persevered in by the hon'ble member in charge of it.

"In fact, with the exception of the clauses relating to the imposition and recovery of rates, all the essential provisions of the Bill may be said to have been determined before the meetings of the Committee were suddenly suspended, and the hon'ble member in charge of the measure recorded his opinion, in a minute which I subsequently heard of but have never seen up to the present

time, to the effect that it was expedient to abandon the proposed legislation so far as it applied to the North-Western Provinces, and confine it exclusively to the Panjáb.

"I confess that, having regard to the past history of this measure, which I have just recounted, I felt some surprize when I heard that it was proposed to proceed with the Bill at this place, from which so many of the members who had taken an active part in the discussion of the subject and the settlement of the most important clauses of the Bill during its progress in Committee at Calcutta, were necessarily absent. But my hon'ble friend (Mr. Strachey), in introducing the subject here, by moving that His Honour the Lieutenant-Governor of the Panjáb and the Hon'ble Mr. Egerton should be added to the Committee, although he made some reference to Colonel Strachey's recorded opinion to which I adverted just now, and expressed his previous concurrence therein, remarked that—'a letter had been addressed to the Government of India by that of the North-Western Provinces, in which it was stated that His Honour the Lieutenant-Governor observed with much regret that the Bill for regulating irrigation in Upper India had not yet passed into law; that serious loss and inconvenience arose from the delay; and that the passing of the Bill with all possible expedition was earnestly recommended.'

"The letter went on to say 'that, till the Bill was passed, the Government had no legal control over beds of rivers, and could not interfere with private dams, however desirable, on public grounds, such interference might be; and, moreover, that considerable loss of income had resulted from the present defective condition of the law.' From these remarks it was to be assumed that the measure was to be proceeded with in its full integrity and according to its original design; that the consideration of details was to be taken up from the point at which it had been suspended in Calcutta; and that the conclusions already arrived at by the larger Committee at that place were to be maintained. I have gone thus minutely into the history of the progress of that Bill up to the period at which my hon'ble friend (Mr. Egerton) assumed charge of it, as pertinent to the question which I have now to ask, namely, why the local extent of a measure originally designed for application to the whole of Northern India and especially needed, as has been shown, in the North-Western Provinces, has been cut down to the limited area of the Panjáb?

"The report of the majority of the Select Committee states that the 'change has been made on account of the difficulty of adapting the provisions of the Bill to the circumstances of the whole of the territory to

which it was first proposed to extend it, in such a way as to keep what was suitable for each province.'

"I demur to the precise correctness of that statement; it implies that there are matters of detail connected with this Bill which, owing to the varied circumstances of the different provinces to which the measure as originally designed was intended to apply, cannot be regulated by any uniform set of provisions. But the only provisions to which the authorities of the North-Western Provinces object rest upon questions of principle which, if they are to be affirmed in the sense contemplated by the Bill, may as equitably be so affirmed in respect of one portion of the empire as another.

"Almost the whole of the provisions of the Bill which are of practical importance in the working of a general scheme of canal irrigation—I refer to the subjects comprised in Parts II, IV, V, VII and VIII, and so much of Part III as relates to the powers of canal officers, the construction and maintenance of works, the conditions of a water-supply and the charges therefor—are not only accepted, but urgently asked for, by the Government of the North-Western Provinces; and we are told that a considerable loss of income has already resulted from the want of such legal power as is provided by the clauses to which I have referred. I ask those who are responsible for the economical administration of the financial affairs of this country, whether this state of things is to be permitted to continue, and the Government of the North-Western Provinces is to be told—as seems to be the practical effect of the course which is being taken in regard to this Bill—that, until it assents to the principle of a compulsory rate, it is to be excluded from the benefits of special legislation in regard to canal-administration. If that is the intention, such a course will, I venture to think, scarcely redound to the credit of this Council or of the Supreme Government in public estimation. If, on the other hand, it is proposed to bring forward and enact shortly a similar measure for the North-Western Provinces, then I must say that such procedure will be wholly inconsistent with the policy of all our recent legislation which has been undertaken for the purpose of welding together and consolidating as much as possible the existing law.

"The preamble to the amended Bill is in my opinion objectionable, inasmuch as it asserts a somewhat doubtful statement of facts; that a certain sovereign right in all natural streams and water-courses vests in the Government, pretty much in the same way as it does in regard to land, unless it has been specifically relinquished, no one can doubt; but there is also a co-exist-

ent right of usage of the water of natural streams vested in the community, and this seems to be distinctly recognized by the provisions of section eight. The declaration of the preamble, which implies that the State enjoys an exclusive right of property in the water of natural streams and channels, and the contents of clause eight, involve an apparent contradiction, and I think it would have been better if the former had been omitted.

"In the assessment of the owner's rate in the manner proposed, there is, I think, some hardship. Where the land-revenue has been already assessed at canal irrigated rates, it is provided that a refund of the extra revenue assessed in consequence of such irrigation is to be allowed before the owner's rate can be exacted; but no allowance is made for those cases in which the land has been assessed at wet rates by reason of irrigation from wells or sources other than canals constructed and maintained by the Government.

"Of the practical bearing of this question on the operation of this Bill, as now limited, I am unable to judge, as I am unacquainted with the facts of the case as regards the extent of well-irrigation in the Panjáb. I know that it is largely carried on in the North-Western Provinces. My contention, however, would apply, more or less, in any case, for it is one of principle. I hold that, to whatever extent the advantages of irrigation from any source have been already taken into account in the assessment of land-revenue, to such extent a proportionate allowance must in equity be made in the adjustment of the owner's rate.

"I think also that it is unwise to disturb existing settlements in the manner contemplated by the Bill, where the land-revenue has been assessed at canal irrigated rates, except in the way of extra charge for an extension of the irrigated area. I know that it is proposed to take, in the form of 'owner's rate', no greater amount than has been previously deducted from the land-revenue assessment, and that thus, practically, the landholder in such case will be subjected to no greater charge than at present; but I hold strongly that sound policy requires a foreign government to abide, not only by the spirit, but by the letter of its engagements with its subjects, so as to avoid all reasonable grounds of suspicion and distrust which any other course is sure to excite in the minds of the people. I fully recognize the importance—I may say the absolute necessity—of maintaining a complete separation of these two items of revenue—land assessment and water-rates. I have read very able papers on this subject, and I think the arguments used in them would carry conviction to most minds, as to the cogency of the reasons for dealing separately with things involving such essentially different conditions and considerations as the assessment of a

water-rate and the settlement of land-revenue. But great as is the expediency of adopting this course, I would restrict it to future operations, and I deprecate the disturbance of settlements which have been already made where canal irrigation was available and fully taken into account at the making of such settlements, as likely to suggest doubts of our good faith in our dealings with the people of this country.

"The most important feature of the Bill is the provision contained in section forty-four, for the levy of a rate on lands irrigable but not irrigated; and I would first draw attention to the rather curious position in the Bill which this provision occupies. Like the proverbial snake in the grass, it is almost hidden in the ramifications of Part III, which, though the receptacle of all sorts of unconnected matters, bears simply the unsuspicious heading—'Special powers of canal officers in relation to surveys, construction and maintenance of works and decision of differences regarding water-courses.' The principle of such an assessment was, on its first appearance in the original draft, strongly attacked, and especially reprobated in a dispatch from the Secretary of State, dated 11th January 1870, from which I need make no quotation, as it has been published and circulated as a paper on the Bill. But it will be said that this provision has been divested of its obnoxious character by the conditions which have been attached to the levy of a compulsory rate, and which are included in the amended Bill. To show that this is not the view taken by those who are amongst the most competent to form a sound conclusion on this point, I will read from a letter from the Government of the North-Western Provinces in regard to the amended Bill. The Lieutenant-Governor, who it will be remembered was the strongest opponent to the principle of a compulsory rate when the idea of levying such a rate was first started, is of opinion that the provision of the amended Bill on this subject is 'even more objectionable than as it stood in the original Bill. There, the imposition of the rate was made to depend on a distinct financial necessity, and the measure itself could not be introduced unless it were proved that the canal had failed to reach a specified percentage of profit. The character of the imposition was thus marked, and its range defined and limited. In the present Bill, neither cause nor limit is assigned. The measure will simply be based on the opinion that reasonable use has not been made by the people of the canal; and, on this opinion, an agriculturist, who never took a drop of water from the canal, or intends to take it, who finds, in fact, that it is not for his interest to bring water channels to his fields, can be charged a special rate which may reach to two rupees an acre. The injustice of such a proceeding seems to be patent on the mere statement of it.'

"There was something peculiarly offensive to the popular notion of that equity and good conscience' which does duty for substantive law to so large an extent in this country, in making the non-realization of a seven per cent. return on an outlay of capital borrowed at four per cent., the main condition of the levy of this impost; but it may well be questioned whether, as the Lieutenant-Governor surmises, the new condition as to the 'reasonable use' may not press more hardly upon the landholder than the former one. In any case, by whatever conditions the action to be taken upon it may be surrounded, the principle remains unaltered, and, consequently, the objections to that principle must apply as strongly in the case of the present Bill as its predecessor. It has been asserted that the principle of the proposed tax differs in no respect from that which governs the levy of special taxation in towns for various descriptions of municipal improvements. I contend that there is no analogy whatever between these cases. In the latter, theoretically at least, the taxation is imposed by the will, or with the consent, of the representatives of the tax-payers. I say theoretically, because literally Municipal Commissioners are not the delegates of the people, yet, generally speaking, the Government makes such selections for those offices as the people, if they were vested with the power of election and were likely to make a discreet and discriminate use of it, would themselves choose. Taxation so imposed is surely something very different from the measure provided by this Bill.

"Again, in the case of municipal taxation, the tax-payers get something for their money, which, however much or little they may appreciate its value, does undoubtedly enure to them very substantial benefits; but the landholder subjected to the special rate gets no benefit in return. It will be said that the conditions under which only the rate can be levied require that the use of canal-irrigation should secure greater profit to the agriculturist than he would otherwise have obtained? It is just because cases may occur, in which it may be shown that the cultivator would have secured a better crop from the use of canal-irrigation than he would have done without it, and because such cases are extremely likely to occur and will subject the landholder to the screw of the special rate, that I regard the provisions of this Bill with so much apprehension. For it may well be that the cultivator intelligently and wisely elects not to use canal-irrigation, to forego the estimated increase of profits, in order to avoid what he may conceive to be the more than counterbalancing concomitant evils attending the use of such irrigation. He may say 'I know that I should get a much larger profit from the use of your water, but either from well-irrigation or the natural resources of the soil unaided by your water, I get a return sufficient for my wants, and I would rather forego possible

increased profits than bring myself within the dominion of the canal officers. By resorting to the use of canal-irrigation, I incur all sorts of responsibilities and obligations in regard to water-courses and the like, or I must give up my wells and depend entirely upon you for a water-supply, and you may, as you have carefully freed yourselves from all pecuniary responsibility for the non-fulfilment of my just expectations, disappoint me just at the moment of my utmost need.'

"I do not, by the case which I have put, intend to suggest that the canal officers are as a rule in any degree less mindful of their duties to the people with whom they are brought in contact than any other body of public officers would be under similar circumstances; but I do wish to point out that the proposed law practically invests those officers—and I believe necessarily so—with very extensive authority, and that, keeping this fact in view, it must be regarded as not the least mischievous consequence of the power of levying a compulsory rate, that the inducement to use their authority wisely so as to attract a voluntary recourse to canal-irrigation by a popular administration of the system, is, through the existence of that power, to a great extent withdrawn.

"Another important argument in favour of the levy of this special rate is that, on grounds of humanity, no less than on sound financial considerations, irrigation must be promoted by the construction and maintenance of canals for which somebody must pay; and that this being so, it is more just to assign the burden of the cost of these works to those for whose benefit they are devised than to impose it on the general tax-payer.

"The first proposition may be readily admitted, subject to the reservation that no injustice or hardship is caused to individuals as the necessary consequence of these works. When that limit is overstepped, I should hold that it is not desirable to construct canals. But, in regard to the apportionment of the burden of cost, I contend that the argument is wholly unsound. Of course, every projected work of this sort is intended to benefit some people; but if, through any error of design or construction—and the history of some of the more recently constructed barracks shows that even officers of the Department of Public Works, upon which the design and execution of canals must devolve, are fallible—the work failed to achieve the general object of its design, surely it would not be just to saddle certain persons with the cost, who have derived no advantage from the work, and have had no option whatever in the matter of its construction, merely because it *was designed* for their benefit?

"Take, as a possible illustration of such a case, the Sarda and Rohilkhund canals, which are, I believe, either being constructed or are about to be

constructed. One of our hon'ble colleagues (Mr. Inglis) who has a thorough practical acquaintance with Rohilkhund, is of opinion that, owing to the water being so near the surface, and the consequent facilities for kacha well-irrigation which exist in the country to be traversed by these canals, the mass of the agriculturists will not take the water, and that, consequently, the canals cannot prove a profitable undertaking.

"The truth is that canals are projected and constructed mainly in the interest of the general tax-payer to lighten his burdens, directly, by staving off the heavy cost of periodical famines, and indirectly by improving the general resources and wealth of the country. Where these works are wisely designed and carried out, they are sure to answer their purpose without the aid of section forty-four; the risk of error in design or construction should in all equity and reason be borne by the general tax-paying community, whose agent the Department of Public Works is in projecting and carrying out these schemes. That community is, on every consideration, as justly chargeable for the consequences of an unwise or unskilfully executed canal project, as for the cost of barracks which through faulty construction may have fallen down or become otherwise unserviceable.

"Lastly, in connection with this subject, I wish to draw attention to the provision of the final paragraph of section forty-eight. It runs as follows: 'If any question shall arise whether the said conditions are complied with or not in respect of any land, it shall be determined in the same manner as suits relating to rent under the law for the time being in force.' In the first place, I do not understand the object of this special reference to rent suits in a Bill the operation of which is limited to the Panjáb, where such suits, I believe, take the same course, both as to the class of Court in which they are instituted and the form of procedure under which they are tried as any other actions for debt; but my main objection to this clause is in regard to the vague form which it prescribes for the treatment of a very important matter. It cannot be doubted that, wherever the attempt is made to levy this rate, 'a question' will arise; and I say that, if the application of these conditions is to be anything more than a sham and a delusion, it should be distinctly provided that, ere the rate can be levied, the 'question' must be tried in the form of a suit in which the Government is the plaintiff and the objecting landholder the defendant, so that the matter may be determined in an impartial manner, and the person resisting the imposition of the rate may have such advantage as the position of defendant, and the consequent *onus probandi* on the other party, the Government, are calculated to afford.

"The provisions of Part VI, in regard to forced labour, go much further than the conclusion arrived at on this question by the Committee, by which it was much discussed in Calcutta. The procedure of the Bill in this respect is defended on the ground that, in some districts of the Panjáb, owing to the sparseness of the population, the amount of available labour is very small, and that, moreover, the system of employing "chers," who appear to be a species of serfs, with or without their consent, on canal-works is distinctly recognised and allowed by the existing law of the Panjáb.

"From Mr. Barkley's book on the law of that province, which has on other occasions been assumed to contain all orders and rules having the force of law, it would appear that this impressment of labour is authorized only on the Indus Canals, in the Dera Gházi Khán District and on the Multán inundation canals, for ordinary works, such as silt clearances, and this, moreover, for stated periods, *i. e.*, from the beginning of January in each year to the middle of April. In other parts of the Panjáb, as, for example, on the Upper Sutlej Canals, the resort to forced labour is restricted to emergent occasions, where serious injury is apprehended and the supply of labour available for hire is inadequate.

"This is in accordance with the conclusion of the Calcutta Committee as to the circumstances under which only the impressment of labour should be authorized, and represents in my opinion the extreme limit to which the extension of forced labour can be justified.

"The mere fact that in certain places the ordinary supply of labour available for hire is insufficient for the purpose, does not justify the strong measure of impressment for an occasion which can be long foreseen and, consequently, otherwise provided for.

"There are many parts of India in which the local supply of labour is insufficient for the requirements of such places, and hired labour has to be brought from a distance. That the importation of labour enhances greatly the cost of the work to be executed, is no sufficient reason for the retention of the system of forced labour, even though that system may heretofore have been in some degree sanctioned by rules having the force of law.

"The Bill, as amended, in point of fact, provides for a considerable extension of the existing law, inasmuch as it is proposed to give to the local Government the power of sanctioning the use of forced labour for ordinary canal-works in any part of the province. It further includes, under the denomination of 'labour' liable to impressment, all persons exercising any handicraft, and makes

the neglect on the part of any such labourers to comply with the requisition for their labour a criminal offence punishable with one month's imprisonment.

"Under the existing system, 'chers' have the option of avoiding the obligation to supply their labour by the payment of a daily fine of four annas in lieu thereof.

"I am very strongly of opinion that the tendency of new legislation in this era of advanced civilization should have been rather to relax the harshness of the existing system than to render it more stringent and far-reaching, as is now proposed, and I think the power conferred by the Bill on the Local Government in this matter open to grave objection.

"My Lord, I have thus stated the reasons, very imperfectly I feel, which in my opinion render this Bill unfit for enactment in its present shape. I hold that, whatever may be the practical inconvenience—and it cannot be very great—which would result from the adoption of the amendment which I am now about to move, it weighs as nothing in the balance against the cogent reasons which exist for extending the essential provisions of the Bill to the North-Western Provinces, and the propriety of determining such questions as are involved in it in a Council constituted, as I pointed out when I last spoke on this subject, as it can only be constituted when it assembles in Calcutta. With these remarks, I move that this Bill be re-committed, with instructions to the Committee to report again thereon in two months."

MAJOR GENERAL the Hon'ble H. W. NORMAN, although he had strong objections to one part of the Bill, was not prepared to support the amendment of his hon'ble friend Mr. Cockerell. The Bill was declared to be applicable only to the Panjáb, and he (MAJOR GENERAL NORMAN) was not aware of any peculiar circumstances in connection with that province which would render the clauses referred to less objectionable there than elsewhere. It appeared to him, therefore, that the Bill might with propriety be proceeded with, sitting as the Council was in the Panjáb, with His Honour the Lieutenant-Governor and the Hon'ble Mr. Egerton present to share in the responsibility of passing it. MAJOR GENERAL NORMAN thought this better than that the consideration of the Bill should be deferred until these gentlemen were absent, even though the Council might then be joined by gentlemen who, whatever their other merits, could not be supposed to possess much authority as judges of what is applicable to the Panjáb.

The Hon'ble MR. ELLIS did not intend to say much in regard to the point raised in the amendment of his hon'ble friend, Mr. Cockerell, as

those who were in charge of the Bill would be best able to answer for the procedure which had been adopted. He (MR. ELLIS) however advocated the pressing on to completion of the measure while the Council had the advantage of the presence of His Honour the Lieutenant-Governor and the Financial Commissioner of the province. He did not think it necessary to slay the slain over again and follow his hon'ble friend, Mr. Cockerell, through the details he had entered into regarding the original provisions of the Bill, for he believed these provisions were no part of the present measure; but he agreed with his hon'ble friend in his expression of satisfaction that their further prosecution had been vetoed by the order of the Secretary of State. These provisions, however, were not now under discussion, and any objections that might have been taken to them, as they originally stood, were quite irrelevant, as the provisions of the Bill, as now framed, were of a different character. These provisions appeared to MR. ELLIS to be a compromise between the extreme views of those who held that, if a canal was to be made, a certain arrangement of the district through which it passed must also be made to guarantee its paying at any price, and the views of those who held that under no circumstances should a person be called upon to pay for water which he was not disposed to use. He took this to be a compromise, and he accepted it as a fair and reasonable one. If anything was to be said against the principle adopted, it would be that it was fenced round by conditions so varied, complicated and difficult of proof, that, if anything, there were too many safe-guards, rather than too few, against oppression and injustice to the people. He did not conceive, however, that it would be necessary to put them in force in the Panjáb, for, from all he could ascertain, the people of that province were only too glad to get water where they could, the only doubt being that, in some parts, there would not be a population sufficient to make use of the water available. This being the case, the provisions of the Bill would be harsh, and it would be asked "Why enact them at all?" The answer to that would be that, in carrying out large schemes of this nature, involving considerable sums of money, the Government naturally looked to the financial success of the schemes, only requiring a guarantee that that financial success should be ensured. He was thoroughly agreed with the hon'ble member who moved the amendment, that they should not attempt to secure themselves against engineering failure by a tax upon the people for whose benefit these engineering failures were designed; but he understood that the Bill, as at present drawn, did nothing of this kind. It did not charge the people with the expense of engineering failures; if it did, then he would certainly not support the clauses. It was obvious that, so far as engineers were concerned, all claims of that kind should depend upon two calcula-

tions—the calculation of the cost of the works, and the calculation of the area irrigable. The rates were fixed by revenue officers, and, for them, the engineers were not responsible. If the work failed financially, because it cost more than was originally estimated, or because it was found that the supply of water was not sufficient, or the area irrigable not so large as was expected, then, according to this Bill, no one would be liable for a single pice more than he already paid.

MR. ELLIS could not conceive how his hon'ble friend could have imagined that the Bill under discussion was designed to cover engineering failures, or to foist the cost of such failures upon the people in any way. If, however, from ignorance, wilfulness or any other cause, the people refused to avail themselves of the water which was made available to them for their profit, then he (MR. ELLIS) would say there was no hardship that these people should pay to ensure the financial success of what was carried out for their benefit. There was an analogy between this and the case of land-revenue. Assessment was fixed on the best lands at a high rate, on the supposition that the best kind of crops would be grown thereon, but, if the landholder refused to grow the best kind of crops and grew only inferior crops, he was not the less obliged to pay a high assessment. The land was made more valuable, and, if the owner retained possession of it and had these facilities, whether he wished to make use of them or not, there was no hardship in making him pay a higher rate for land which he retained and allowed no one else to use to their advantage. MR. ELLIS therefore had no sympathy with those who raised a cry of oppression and injustice in the case of the taxation of those who would be taxed under the very stringent restrictions imposed by the clauses of the Bill as at present framed.

The Hon'ble MR. STEPHEN did not propose to address the Council at any length upon the measure, because he felt that its provisions related to subjects upon which his opinion could be of little or no value; but there were some observations which had fallen from the Hon'ble Mr. Cockerell upon which he should like to say a few words. These remarks would relate to the procedure which had been adopted with regard to the passing of the Bill; to the suggestion that it should be brought up in Calcutta, instead of being passed here, and to one or two observations which the Hon'ble member had made in connection with certain provisions which it contained. First, with regard to the passing of the Bill: in addition to the arguments put forward by Major General Norman and the Hon'ble Mr. Ellis, he (MR. STEPHEN) thought there was one consideration which had been overlooked. The Bill as originally drawn up was applicable to

Northern India, that is to say, Oudh, the North-West and Central Provinces. The Legislative Council stood, with regard to Northern India, in the position of a local Council. It seemed, therefore, to MR. STEPHEN that, sitting as they were in one of the most important provinces of Northern India, they were very properly employed in discussing a Bill which referred to it, and he would remind the Council of the fact that, only a fortnight ago, they passed in that place another Bill for Northern India, without any suggestion being made that it was improper to do so. What conceivable objection could therefore arise as to the passing of the Bill at once? After considering the matter carefully, and without the smallest desire to say anything personally offensive, MR. STEPHEN was of opinion that the only difference between the passing of the measure at Simla and at Calcutta was, that, in the one instance, they would have the pleasure and advantage of Mr. Inglis' presence in the Council, and, in the other, that of the Lieutenant-Governor of the Panjáb and the Financial Commissioner: other Members would no doubt be present at Calcutta, but they would be in no way specially connected with the Panjáb or with the North-Western Provinces. His hon'ble friend, Mr. Cockerell, mentioned the name of a gentleman for whom he (MR. STEPHEN) had the greatest respect—Mr. Robinson—who was a Member of Council, and also of the committee which had taken part in the consideration of the Bill at Calcutta. Mr. Robinson's experience, however, lay entirely in Madras, and from what he (MR. STEPHEN) could gather from the discussions which took place in the spring on this subject, the state of affairs in that Presidency, in relation to irrigation, differed from that which existed in Northern India.

His hon'ble friend also asked, why did we not include the North-Western Provinces in this Bill? The answer to that was, that the North-Western Provinces were not included simply out of deference to the wishes of the Lieutenant-Governor of those provinces. The case stood thus: The Bill, as originally introduced, was intended to include these as well as Oudh and the Central Provinces. There was no difference of opinion between the Hon'ble Member in charge of the Bill and the Local Government of the Panjáb; but there was a difference of opinion between the Hon'ble Member in charge of the Bill and the North-Western Provinces. They proposed at present to pass the Bill for the Panjáb, but that did not debar the Government of India from arranging in Council with the local authorities for an extension of the measure to the North-Western Provinces, with any adaptation of its provisions that might be considered suitable for their wants.

MR. STEPHEN would have preferred, from the juridical point of view, if a single Bill could have been drawn and arranged for the whole of Northern

India. But the point was not one of any real importance; and it appeared to him that the only inconvenience which could arise from the course now proposed to be taken with reference to this Bill, was that of having the subject dealt with by two Bills instead of one.

It was asked why the Bill was not passed at Calcutta in the spring? MR. STEPHEN was surprised that any one who was a member of the Committee on that Bill should put such a question, and not himself supply the answer. It was not passed because it could not be. There were present in the Council four members of that Committee, and speaking as one of them, and in the presence of the other three, he would appeal to each of them, and to his Hon'ble friend, Mr. Cockerell himself, as to the amount of progress which was made by that Committee. The discussion disclosed so many differences of opinion, and so many objections were raised on the various points submitted for consideration, that it was practically impossible to get through the Bill before the Council left Calcutta. If the amendment of his Hon'ble friend were adopted, and they were to go back to Calcutta, and have the old Committee reassembled, the result would be that the business of the Legislative Department, already extremely heavy, would be greatly hampered, and much public time and labour would be wasted.

MR. STEPHEN would now say a few words with regard to those principles of the measure to which his hon'ble friend had referred. The Hon'ble Member told them that the report stated that, when the Bill was introduced into the Panjáb, there was some difficulty in adapting its provisions to the whole country. The warm discussions in Committee between Hon'ble Members from different provinces proved the correctness of this.

With regard to the omission of the clauses relating to the rates, MR. STEPHEN did not like to pass the matter over in silence; but, on the other hand, he believed that his opinion on the point would be of little value.

There was force in the remark that the people of the district were not consulted and did not consent to the expenditure which was thrown upon them, and it might be true that the temptation to extravagance was not removed by the fact that a rate would have to be imposed upon irrigable land.

This point, however, was subject to an observation which afforded a complete answer to it, namely, that it was one of the inconveniences of the situation in which they were placed in this country that they were not able to

consult the people upon matters of that kind half so much as they would wish to do, and that they were practically obliged to act for them, undertake the management of their affairs, and do the best they could with an honest regard for their interests.

There was one other observation of the Hon'ble Mr. Cockerell which he (MR. STEPHEN) wished to notice.

His hon'ble friend had objected to the preamble to the Bill, which stated that all rivers and other collections of water in the Panjáb were the property of the Government, and that, he said, was inconsistent with the provisions of section 8 of the Bill. MR. STEPHEN did not think this was correct, as it seemed to him that section 8 qualified the recital, and that recital referred to a law which was observed by every rational country in the world, namely, that great natural resources were not to be the property of individuals, but were to remain the property of the nation at large. When they were spoken of as the property of the Government, it was not to be understood that the Government were the owners as against the people: what it meant was, that the public power of the country at large was to administer all these matters for the public advantage.

His Honour the LIEUTENANT-GOVERNOR said:—"I have not the slightest hesitation in supporting my hon'ble friend in his motion that this Bill be passed. My hon'ble friend, Mr. Cockerell, observed that the measure had been before the Legislative Council since 1870; but I must remark that it has been before the Government of India since February 1867, having then been sent up by the Panjáb Government. I think, therefore, that, if we had omitted to press on the Legislative Council the passing of this Bill at this season and at this place, we should have greatly neglected our duty.

"The hon'ble member has adverted to the lost experience of Messrs. Inglis and Robinson; but without saying anything depreciatory of the ability of these gentlemen, I must remark that Mr. Egerton and myself were, for many years, employed in these districts of the Panjáb, into which irrigation was introduced on the annexation of the country, and that we have that peculiar experience which could not possibly be enjoyed by gentlemen who have not served in the province. We have also had the benefit of Sir Richard Temple's experience, who, for many years, was employed in the Panjáb, and has full knowledge of all the circumstances connected with irrigation in that province.

"As regards the objection taken to the preamble, I may observe that the principle involved has invariably been put forward in all the Bills which have been prepared on the subject from time to time, and had the assent of the late Mr. Thomason and also that of the late Sir Henry Durand. The hon'ble gentleman (Mr. Cockerell) took exception to the provisions regarding the landlord's rates, and he observed that it was inexpedient to disturb the general effect of the revenue settlement; but in the Panjáb, I believe, this inconvenience cannot occur, certainly not for a long time to come.

"As regards the compulsory rate, I was originally amongst the opponents of the first draft of the Bill; but I fully accept the compromise which is offered in this Bill; and I think, if the hon'ble gentleman had gained, as he admits he has not had the opportunity of gaining, experience in a country liable to the effects of drought, he would have set a higher value on the inestimable advantage of the presence of water near lands irrigable. I cannot myself admit that it is in any way inequitable to put a rate upon land which the owner has it in his power to improve by bringing water to it, under the conditions proposed in the sections of the Bill. It must be remembered, also, that the Government is co-proprietor in the lands of this country, and that it has not only the strongest interest in insisting, but a real right to insist, upon the improvement of land; and it seems to me that the proprietor who had it in his power to irrigate land and refused to do so under the conditions of this Bill, would be very much in the same condition as the tenant in England who refused to manure his land against the customs of the locality in which he lived.

"I consider that the hon'ble gentleman was under a misapprehension when he said that lands already irrigated from wells could be brought under this compulsory rate; but my understanding of section forty-eight of the Bill renders this impossible.

"The hon'ble gentleman has further taken objection to the levy of forced labour for the repairs of canals in the Panjáb; but in a country like that bordering the Indus, it would be absolutely impossible to bring the crops to maturity unless this labour were forthcoming at a particular time of the year; and although the hon'ble gentleman's objections were more pointedly addressed to the levy of forced labour in the more populous districts about the Sutlej and the Beas, I presume that, even there, the breaking of a bund or the overflow of a river, unless labour was immediately procurable, might be attended with most disastrous results to the agriculture of the country. I agree mainly, however,

in the general views expressed by the hon'ble gentleman, and, except in cases of necessity, I should have the greatest possible objection to permitting the enforcement of labour.

"There is only one other remark which I wish to make, and that is with respect to the Sarda Canal. The project was submitted to me before I left Oudh, and I cannot understand how it is supposed to pass through a country already irrigated. Certainly in the Khérí and Sitapúr districts the water is very greatly wanted."

The Hon'ble SIR RICHARD TEMPLE said:—"As I consider the principles involved in this Bill to be important, I have listened carefully to the objections urged against it by my hon'ble friend Mr. Cockerell, and I desire to reply briefly to them, or at least to the chief of them.

"In the first place my hon'ble friend considers that the Bill, instead of being applied to the Panjáb alone, as proposed today, ought to be applied to the Panjáb and the North-Western Provinces together. He asks me whether this is right, and whether the land revenue of the North-Western Provinces is not suffering from the want of some such law, and he appeals to me in order to know what the intentions of the Government of India are. My hon'ble friend will doubtless see on reflection that I cannot fully state the intentions of Government on a matter which depends on the action of other departments besides my own (the Financial). But this much I will say. I support the Bill for the Panjáb on the plain ground that it embodies valuable principles and is accepted by the Panjáb Government in whose territories this Council is sitting today. I hope that a similar Bill may be soon passed for the North-Western Provinces, and I will do my best to promote the passing. We are not at this moment in possession of the concurrence of the North-Western Provinces, but that is no reason why we should have delay in the Panjáb. Meanwhile I am not aware of any particular loss to the land revenue occurring from this delay.

"Mr. Cockerell next adverts to a recent despatch from the Secretary of State regarding what is known as the 'compulsory rate,' that is, the rule whereby a water-rate can be imposed on lands which are proved to be capable of canal irrigation. He seems to think that this rule, as in the Bill today, is contrary to that despatch. On reference to the despatch, however, I do not see how my hon'ble friend's construction of it can be maintained. No doubt that

despatch did advert to the difficulty of enforcing the principle and did direct that caution should be exercised. But after that it went on in the following terms :—

"'The object aimed at in the section (*i. e.*, regarding the compulsory rate) is obviously 'that of adjusting the burden of interest on loans raised for State irrigation works and trans-'ferring it from the shoulders of the general tax-payers to those of the communities for whose 'special benefit the works are severally undertaken, and in the value of this object, so far as it 'can be justly and conveniently obtained, I entirely concur; and it will therefore be satis-'factory to me to learn that the section can be so far modified as to obviate any objections.'

"So far then the principle is approved and not objected to as Mr. Cockerell seems to think. Then, after suggesting certain modifications, the despatch runs thus :—

"'A preferable arrangement might be one according to which cultivators, instead of paying 'in proportion to the quantity of water taken by them, that is, more in a dry year and less in 'a wet one, would be assessed at an equal rate per acre of their irrigable land in all years * '* * *. It would, however, rest with Government to fix the rate; and whatever 'rate * * * seemed necessary to raise the required percentage on the cost of the 'canal might be fixed accordingly.'

"Here again, it is distinctly contemplated that under certain circumstances, a rate may be imposed on irrigable lands, and that such rating is to be fixed by Government on financial considerations. I shall advert presently to the details of this proposal. At this moment my object is to show that we are distinctly authorized by the Secretary of State to legislate on the subject.

"Mr. Cockerell then alludes to the analogy of municipal taxation in towns and cities; he considers that such taxation may be justifiable, because those who pay it are directly benefitted thereby. He seems to think that the analogy does not apply to the proposed compulsory rating of irrigable lands. But I say that it does apply most distinctly. For will not every man who may be charged with this water-rate benefit thereby? Undoubtedly he will. He will only be so charged when it can be proved formally that he can and will benefit. Indeed the payer of this canal water-rate would benefit quite as directly by the irrigation of his fields as any townsman could benefit by the conservancy of the streets or by the improved purity of drinking water and the like.

"But if Mr. Cockerell introduced this analogy at all he ought to have pursued it further. He should have alluded to the local cesses for roads,

schools, hospitals, and the like, which have been passed of late, province by province, for the whole of India. It is held by the legislature that, inasmuch as the community benefit by these things, they must be taxed. And it is considered that it is more just that such community should be taxed separately for its own roads and schools and hospitals than that the cost should fall on 'the general tax-payer,' that is, on the revenues generally. But if this be so, then it would be equally just to charge each rural district for the canals running through it, inasmuch as a canal is at least as useful as roads and schools, indeed is perhaps more useful than any other work, perhaps even than all other works put together.

"Again, the payer of cesses for roads and schools and hospitals does not always benefit so directly as the payer of a canal water-rate. A man may be taxed for roads, though he never travels, for schools, though he has no children to educate, for dispensaries, though he never takes physic. But a man will not be compelled to pay water-rate unless it be proved that his fields can be profitably irrigated, and that the water has been brought to their boundaries.

"Therefore I say that the analogy does not, as Mr. Cockerell seems to think, militate against the canal-rate, but is actually in its favor.

"Then Mr. Cockerell quotes a passage from a letter from the Government of the North-Western Provinces, to the effect that a man may be charged for water which 'he finds it not his interest to take.' How in Northern India—or anywhere in India, save in exceptional alluvial districts—it can be otherwise than for a man's interest to take canal water if it be obtainable, I cannot understand. Notoriously it is always for his best interests to take the water; and, if so, it is just to charge him.

"But the passage which my hon'ble friend quotes is only a specimen of dicta which are too common in many quarters and which involve a misapprehension, as I will endeavour to explain.

"It seems to be supposed that if it be really for a man's interest to take canal water, he will 'find' it to be so. But unfortunately in India he does not always 'find' this, or finds it only after a long delay. If our people were quick in apprehension, energetic and enterprising in disposition, they would indeed find their true interest fast enough. But they are notoriously slow, apathetic, and unenterprising. I say this without forgetting the many virtues which they do possess. And it can be proved in tens of thousands of instances

that they have failed or delayed to take canal water for years and years, which nevertheless it was their true interest to take. Their taking it at last shows that they ought to have taken it from the first. I have learnt from the best departmental authority, and indeed the fact is patent from the statistics of irrigation, that whenever there is a drought there is an immediate extension of irrigation. When the drought ceases, and the seasons become good again, the irrigation, once begun, is maintained. This has occurred over and over again with tens of thousands of acres. The fact proves that in all these instances the water which was all along available might with every advantage have been taken from the first, and that the people were wrong in not taking it, and in not finding out their true interest sooner. When they find it out later, it is only after some terrible teachings from famine or distress.

"It is true that extension of irrigation arises from other causes besides, such as development of subsidiary channels; but after allowance for all this, the fact, as I have just set forth, remains.

"Again, if ever a people had an awful lesson of the consequences of drought, it was the people of Orissa. They saw the terrible mortality from famine when the rains were withheld. Nevertheless when shortly afterwards canal irrigation was brought to their very fields, they refused to take the water, because they would have to pay for it! I have heard, though I would fain hope that this cannot be altogether correct, that the land-holders incited the tenants to refuse, on account of some fancied object. Be this as it may, I believe that there have been at times combinations with this view, and a considerable reluctance to use the water. Of course it *is* the interest of the Orissa people to take and pay for the water, though they often fail to find it out.

"Fortunately there has not as yet been any such tendency observable in the Panjáb. The seasons for the last decade of years have been very dry there. But I can remember cycles of wet seasons when sandy unirrigated soils, usually unproductive, became very productive without any outlay of capital, and placed the irrigated lands, cultivated with outlay of capital, at an unusual disadvantage; glutted the markets with produce; caused prices to fall; rendered it difficult for the farmers to get money wherewith to pay the revenue; and caused much economic disturbance. All this will be found in the Panjáb Reports for 1855-56. Now, if such circumstances recur, as they easily may, it is quite conceivable that the Panjábees might try to escape paying for canal water, quite forgetting that such payment

is really their insurance against cycles of dry years, which are more frequent than wet years, and forgetting that if they who benefit do not pay for the canals, the cost must fall on somebody else, and will actually fall on the general tax-payer.

"Then Mr. Cockerell stated that cultivators might have substantial reasons for not taking canal water. I felt curiosity to hear what these reasons could possibly be. At length my hon'ble friend gave one such reason, which was this, that the men might have wells and therefore did not want canal water; evidently supposing that well irrigation is sufficient and is nearly as good as canal irrigation. Such, however, is not at all the fact. In many parts of Northern India indeed the wells are very efficient, and have solid masonry. But, at the best, irrigation from wells is nothing like as good as irrigation from canals. The well irrigation is wholly insufficient, however useful up to a certain point, to ward off the consequences of drought; whereas canal irrigation does, to a considerable degree, suffice. Further, both in the North-Western Provinces and in the Panjáb, so completely does canal irrigation supersede the use of wells that I have seen regret expressed that more water had not been reserved for tracts which had not even the advantage of wells.

"The existence of well irrigation therefore, though it may be a reason for the canal officers reserving some part of the water for less favoured tracts, is not in truth a 'substantial reason' for a cultivator refusing canal water if it be offered to him.

"I heard Mr. Cockerell state that the power of levying a compulsory rate would place too much power in the hands of the canal officers, and would leave them less motive than heretofore to induce the people to take water by making the administration popular. But in fact, does the Bill place any such power in the hands of the canal officers? Not at all. According to the Bill the canal officer has no power to take any such steps at all; he cannot at all say to an individual 'if you do not take the water you shall be made to pay.' The process is this, according to the Bill. It may be reported by the Canal Department, or the local Government may otherwise have reason to believe that a reasonable use is not being made of the water. The local Government will then order an independent enquiry, quite irrespective of the canal officers, to be made. After that the local Government may report to the Government of India, the sanction of which latter authority is necessary to the levying of the rate in the district. I shall notice presently the equitable precautions laid

down for the levying of the rate. I have said this much here, in order to show that it is quite incorrect to suppose that this Bill proposes to place any taxing power in the hands of the canal officers.

"Next Mr. Cockerell says that we may well fear that there will be errors in design, and failures in execution, of the new canals, because, as he pointedly remarked, there have actually been such misfortunes with some of the new barracks! He adduces nothing of the sort in respect to the Canal Department; the remark is confined to the barracks. But why, when we are on the subject of canals, should adverse instances be imported from the barracks? Because, as I imagine, no such instances can be found in respect to the Canal Department. If my hon'ble friend wishes to forecast the future of our canals by instances from the past, why does he go to barracks and military works, which have nothing to do with the subject? Why does he not resort to the canal works themselves? Let him go to the head works of the Baree Doab Canal on the banks of the Ravee; or to Hurdwar on the Ganges, or to the head works just commenced for the canal from the Sone, or to the anicut across the river Muhanuddy in Orissa, or to the vast weirs and the net-work of channels in the Deltas of the Godavery and the Kistna, or to the canal system of Tanjore and the Cauvery; let him look at the designs just sent in for the canal from the river Sarda in Oudh, let him do all this and he will see what our Irrigation Department is capable of; he will find that it reflects honour, indeed lustre, on the British service in India; that it is not surpassed, perhaps hardly equalled, by any similar department in the world; that it is an enduring monument not only of the beneficence of our Government, but of our power of carrying beneficent designs into execution.

"Then Mr. Cockerell said that it would be unfair to saddle the cost of a canal which has failed on the community through whose villages it passes; and that such loss ought rather to be borne by the general tax-payer, that is, by the whole country. Now these remarks seem to me to arise from an utter misapprehension of this part of the Bill. The Bill is purposely so drafted that the rate cannot possibly be levied if the canal has at all failed, and can only be levied when it has palpably and demonstrably succeeded. On turning to the important section fifty, we find that the compulsory rate can only be levied—

"'When the following conditions are complied with: (*a*) that the land is cultivated but not irrigated; (*b*) that the net annual value of the produce of the land, or the productive powers thereof, will be increased by the irrigation thereof by canal water after deducting all necessary charges incurred in cultivating the same, conveying the water thereto, and paying all Government charges in respect of such irrigation; (*c*) that the divisional canal officer shall

have tendered to the occupier or owner thereof a supply of canal water sufficient for the irrigation thereof in the manner customary in the irrigation of land from a canal; (*d*) that the divisional canal officer shall have offered to the said occupier or owner to construct the works necessary for conveying the water to the said land under section fifteen, or (if the said occupier or owner shall so prefer) to apply the provisions of sections twenty and twenty-four for the construction or transfer of a water-course; or shall have tendered an advance of money sufficient to provide for the construction of the said works; such advance to be repayable in conformity with the rules for making and recovering advances made under the Act for the time being in force as to advances for improvements in land.'

"Manifestly the proof of the canal is in the water! If the water is tendered as set forth in the conditions I have just quoted, the canal cannot have failed, and the cultivator can only be made to pay when he receives water from a canal which must, from the essence and nature of the conditions, be in an efficient working order.

"Then Mr. Cockerell quotes from a report which states that the projected Sarda canal will pass through a country already irrigated by 'kucha' wells, evidently thinking that such a tract will not really need canal irrigation and should not be made to pay for the same. In the first place the Sarda canal as now designed is not to pass through a country thus irrigated. But if it were so designed, then would the fact of its passing through such a tract be any sort of proof of its not being imperatively needed? Is irrigation from 'kucha' wells, in the least degree, a substitute for canal irrigation? Assuredly not. What is a 'kucha' well? Why it is just a hole dug in the ground where ordinarily water is met with near the surface; it is unsupported by masonry, and is altogether of a temporary and uncertain character. So long as the rains are propitious, as the clouds drop fatness, as moisture is retained in the ground, these kucha wells are serviceable. But on the slightest stress of drought, or failure of season, they inevitably become useless. Their existence therefore furnishes no reason whatever for canal water being not introduced and canal rates levied. Indeed the remarks I am combatting run counter to the fundamental principle of canal irrigation in Northern India. We want something more reliable than the periodical rains, than the kucha wells which constitute the lowest and most precarious kind of irrigation, than even masonry wells of the better sort. These things depend on climatic considerations, which meteorological experience has shown to be dangerous to life and property. We cannot depend on local supply of water for Hindostan. But there is one supply of water which we can, comparatively, depend upon, and that is derived from the mighty range of Himalayan mountains which overhang Hindostan. There Providence has stored an infinite quantity of snow

and glacier, and perennial waters, for the use of man, for the sustenance of the people who dwell in the arid plains below, if we will only learn, by application of science, to utilize these natural advantages, and if the agriculturists will submit to the pecuniary sacrifices necessary thereto.

"Lastly, Mr. Cockerell objects to what he terms the 'forced labour' sections, that is, to those sections, seventy to seventy-three, which authorize the agriculturists in certain districts to be required to supply labourers (on due remuneration) for maintaining the canals which pass through those districts, and which prescribe penalties for refusal or failure to comply with such requisitions. In other words there are certain districts where every able-bodied villager must, at certain fixed periods, or on emergency, turn out to repair the canals, on which the very food of the community depends. My hon'ble friend deems it improper to sanction such a practice by law, and says that this reduces the people to a state of serfage. What, however, is the fact? The practice is an old established custom, long anterior to British rule. The people are so situated that absolutely they cannot live or exist without it. If it be not authorized by law, they must somehow enforce it by arrangements among themselves. The districts where it prevails are insalubrious and isolated, almost rainless, dependent solely on canals from certain great rivers, dependent further on a certain supply of labour for repairs of canals, yet far distant from ordinary labour markets. The people are therefore driven to rely on themselves, and every able-bodied man must put his hand to the work, on which indeed his own bread, as well as the bread of all his neighbours, depends. The custom is thus necessary; and if it must exist, then it had better be authorized by law, and thus be brought under due check. My hon'ble friend seems to think that it might be gradually abolished. I cannot foresee any chance of this. At present any attempt to obtain labour from a distance would probably lead to failure of the works, and would certainly lead to great waste of money. If a man refuses to work, when he knows that he is thereby practically compelling his brethren and neighbours to work for him, and is directly shifting his own burden to the shoulder of others—just as in the crew of a ship in a storm, one man skulking or shirking, puts more work on the rest—why he does, morally, deserve some mild punishment; and, if so, he may as well have it legally.

"I have now done with my hon'ble friend's objections. In replying to them I have developed my own opinion, which I shall only now state by way of recapitulation.

"We are to make canals, and they must therefore be paid for, that is, the interest on the capital laid out in construction must be paid regularly. Who is to pay this? The communities through whose lands the canals pass, or the General Treasury, in other words, that inexhaustible person, the general tax-payer?

"I should say that the community which benefits ought to be charged. If it be justifiable to tax people locally for roads, schools, and drinking-water works, and street conservancy, and so on—as the legislature holds that it is—then still more is it justifiable to tax a community locally for canals, which are more beneficial than any local work that could be named. From this point of view, the taxation for canals should be so arranged as to be limited to those classes who benefit directly or indirectly by the works. Still the principle remains; if there may be a road cess or a school cess, there may be also a canal cess. If the subject be impartially viewed, it will be found impossible to distinguish between the one and the other. If there may be local taxation for anything at all, there may be such taxation for canals. It is sometimes said,—'better give the people the boon without taxation; better not render a beneficent thing odious in this way.' But this sort of specious argument, if stripped of disguise, means that people like canal water best when they can get it, not wholly at their own expense, but partly at the expense of the country at large; that districts or communities are to enjoy the benefit of canals which are paid for partly by themselves and partly by other districts and other communities. If the public were to see the transaction in this light, they would hardly approve it. Is India generally to defray the charge of canals which affect certain districts or certain provinces only? If it were possible (which it is not) to take the sense of the majority, the answer would be in the negative. Yet in practice we have done, in Northern India at least, and are still doing, something of the sort. Great canals have been constructed; doubtless their returns will some day more than cover the interest on the capital; but such is not yet the case; meanwhile a large portion of the interest is being paid by the country generally. Certainly it is not paid by the communities or the districts who benefit by the canals; nor is it even paid by the provinces in which the canals exist; for these provinces, however valuable, are not what we call surplus territories, which yield something over and above the costs of their defence and administration. Without objecting to anything that may have been done heretofore, I am bound to say, financially, that we cannot always go on doing this. It seems to me that if canals in the future are to be made, the full interest on the capital must be obtained locally, that is, from the communities

or districts benefitted directly or indirectly. The General Treasury cannot, and ought not to defray the charge as heretofore.

"But however sound this principle may be financially, the present Bill does not go so far as that. It limits the compulsory rating to the particular persons whose fields are irrigable, if not yet irrigated, and to whose boundaries the water is actually brought. The justice of this is plain. What reasonable motive could a man have for refusing to take and pay for the water? Perhaps the reason would be ignorance and apathy; perhaps a repugnance to incur the smallest expense for even a certain benefit; or perhaps a vague hope that he might go on a little longer in the old groove before the evil day of drought should come round. Yet from all this folly and hesitation, repeated in tens of thousands of instances, the individual suffers, for the drought overtakes him unawares, when he is unprepared by irrigation to face it; the community suffers from famine and its train of evils, which might have been averted by timely enforcement of irrigation; the State suffers in not recovering at the time the interest on the capital it has laid out for the benefit of particular places; and the loss meanwhile is inevitably, though not equitably, imposed on the country generally. It must never be forgotten that the Exchequer is in some respects only a synonyme for the country at large. Our Treasury balance is only the residue unexpended of public money, drawn from the capital of the country and held in stewardship by us on behalf of the country. Therefore if any province or district unduly trenches on these cash balances for the construction of its canals, it really imposes a burden on other provinces or on the public generally.

"Therefore I say that the compulsory rating as limited and defined in this Bill is necessary, as the enforcement of a principle essential for the interests of the people as well of the State; for the State, as enabling it to apportion justly the burden of payment for works of material improvement; for the people, as protecting them from the consequences of their own improvidence.

"I have one more remark to make before concluding. This Bill embodies another important principle, that is, the levy of two kinds of water-rent, called now the owner's rate and the occupier's rate. Heretofore there has been only one kind of rate in the Canal Department, which corresponds to what we now call the occupier's rate. If the cultivator irrigates his field, he pays the occupier's rate. The landlord, who of course will get increased rent from land thus fertilized, will pay the owner's rate. This point is of great importance in

districts where there are zemindars or other landlords. They will now have to pay owner's rate; otherwise they might, under certain circumstances, escape the payment of this just due. If the occupier be both cultivator and owner, as in the case of peasant proprietors, then he would pay both owner's rate and occupier's rate. Practically he does this now in many parts of the North-Western Provinces and the Panjáb: that is, he pays the canal water-rent and he pays an additional irrigation rate of land revenue. Though this process is sometimes complete, yet it is not always so, and its operation is uncertain, and at the best the irrigation revenue rate which is really canal income becomes mixed up with land revenue. The Bill makes all this clear. There will be no doubt of the State's obtaining its dues from the occupier or owner where they are separate, and the double rate where the two capacities are combined in one person; and the full sum of canal income will be properly exhibited. The Bill also provides that where the people are already paying the double rate under settlement, they shall not be made to pay any more now, though the designation of their payments may, as a matter of account, be changed.

"I have only now to express my hope that the Bill as amended by the Select Committee may be passed into law."

The Hon'ble MR. STRACHEY said:—"MY LORD: I propose, in the remarks which I am about to make, to confine myself to one part of the Bill only; that part which provides, under certain circumstances, for imposing compulsory rates on the owners of irrigable land. In regard to the other important subjects to which this Bill refers, I think that I need say nothing, because they have been already sufficiently discussed. We all know, my Lord, what a common practice it is, in arguing, to attribute to one's adversary all sorts of opinions which he never expressed, and never held, and, having demolished one's imaginary enemy, to triumph in an imaginary victory. I am sorry to be obliged to say that there has been a great deal of this kind of argument on the present subject. I shall now endeavour to state the reasons for which I believe it to be essential that the principle regarding which there has been so much discussion, and which is affirmed by sections 44 to 49 of this Bill, should be distinctly laid down by the law.

"Although there has been much difference of opinion regarding the exact manner in which that principle should be practically applied, the principle itself has been distinctly declared by the Government of India, for several years past, as one of essential importance. This has been repeatedly said in the published orders and despatches of the Government, and also by your Excel-

lency and by Members of the Government in the Legislative Council. The justice of that principle has been, with rare exceptions, acknowledged by the highest authorities connected with both the Supreme and Local Governments.

"The public hardly appreciates the serious financial considerations which are involved. Already, as Colonel Strachey stated last year in this Council, we have incurred, or are in progress of incurring, an expenditure on canals, in the North-West Provinces, Panjáb and Oudh alone, of more than £20,000,000.

"Other great undertakings of a similar character are going on in other parts of India, and Colonel Strachey informed us that before long the liabilities for works of irrigation would amount to an annual charge of several millions sterling.

"The duty of executing these works, if it can be done without extreme financial danger, is obvious; for in no other way is it possible to give real and complete protection to the country against the terrible famines, which, even to this day, periodically devastate the land.

"There is a common idea that these great canals not only pay all their expenses, but that they bring a great and certain direct return to the treasury. Unfortunately this is only partly true. There is doubtless ample reason for believing that these works will ultimately be highly remunerative; but it has been proved by actual experience, as my hon'ble friend, Sir R. Temple, has already observed, that this result often takes a very long time to bring about. In regard to the reasons which lead to this delay in obtaining the full benefits of the canal, I shall have to speak again presently.

"I will now only say that, without at all undervaluing other reasons—such as bad management of our own officers, insufficient construction of subsidiary channels, and other causes which have often had much influence—I am satisfied that the main cause of this delay has been ordinarily the ignorance of the people, and their disinclination to embark in any novelty. They and their fathers before them, from time immemorial, have cultivated their fields with no water but the rain from heaven, or that raised laboriously from wells; and they can no more appreciate in a moment the advantages which the canal offers them, than the people of our towns can appreciate the value of clean streets and drainage, and wholesome water to drink. I will quote here a despatch, written about two years ago, from the Government of the North-Western Provinces, in illustration of this part of the subject. It was written regarding the projected new canal from

the Ganges, and with particular reference to the irrigation of the autumnal crops, but it applies in principle to irrigation canals generally:—

"'As regards the projected *kharif* canal, it will be long before the people avail themselves fully of the contemplated autumn supply for other crops than indigo, sugar and cotton. In the Eastern Jumna Canal, the eventual proportion of nine-twentieths now taken by the people for *kharif* cultivation, is the result of an education of some forty years in the use and benefits of canal irrigation. The experience of the past year goes to show that, at the present time, cultivators in the Doáb wait looking for the rain from heaven, and only at the last moment, and therefore only in really bad seasons, resort to the canal in aid of the commoner crops. His Honour is not insensible to the benefits of *kharif* canals; and would, indeed, be glad to see the one projected by the Chief Engineer carried into effect, if it can be done with a due regard to financial considerations. But the Lieutenant-Governor holds strongly that, in the Doáb, irrigation from such a canal could not supersede, or stand instead of, *rubbee* irrigation; and also that, in calculating returns for capital invested in such an undertaking, the disinclination of the people in this part of the country must be borne in mind. Perhaps, on an average, one out of every five years may prove a failure, and lead the people to the canal for their ordinary autumnal crops; in the end, after a long series of years, they may have learned fully to appreciate and use the water irrespective of the season. But, certainly, for a considerable period the water would be but partially used during the monsoon, and the return in water-rate would be proportionally low. But delayed returns are equivalent to an increase of the capital invested; and the Lieutenant-Governor thinks that this point has not been sufficiently regarded in the calculations of the Chief Engineer.'

"There can be no doubt, I believe, that this is generally true. Ultimately, the people find out the value of the canal, and every drop of water is utilized and anxiously demanded; but until this result arrives, the Government has to go on paying the interest on the borrowed money with which the canal has been made. So long as these works were upon a small scale, and constructed with such funds as could be made available from the annual revenue, the matter was one of minor importance; but now that we are expending on these canals millions of borrowed money, it becomes a matter of most urgent financial necessity that there should be no doubt as to the mode by which the interest on these charges is to be secured. The Government of India maintains—and this is the general principle which underlies the sections of which I am speaking—that if, after these works have been constructed, the income be insufficient to cover the interest on the capital charge, then the deficiency ought not to be borne by the general tax-payer, but by the particular districts which have benefitted by the canal, which, by its construction, have been protected against famine, and where the value of landed property has been enormously increased. That this principle is equitable and right, and that the other principle—that of throwing upon the tax-payers in distant parts of the

country charges for works of local utility—is thoroughly inequitable and wrong, seems to me to be a proposition not open to doubt. It is a principle recognized in every civilized country, and it is now recognized in India in regard to all other classes of public works and objects of local utility. I should like to read to the Council what one of the wisest and most accomplished Statesmen who ever came to India, Lord Sandhurst, said upon this subject:—

"'It was but too true that there was a sort of feeling among certain classes of the public, this including, not only the ryots and the petty landholders, but even some of our own officers in responsible situations, that there was a kind of bottomless purse, into which all were free to dip their hands at pleasure for local objects, without any local responsibility of reimbursement, this unlimited treasury being what was called the Government.

"'We could understand the ryot or the petty landholder having this notion of the Sarkár; but it was difficult to comprehend how responsible officers charged with the care of administration, who were aware of the almost infinite demands on the Government, should fall into such errors of reasoning.

"'Well, this matter seemed to be fairly set right by certain clauses in the Bill. Some alteration in the wording, some modifications, might be required; but the principle according to which these works must be carried out henceforth was described in a manner admitting of no mistake in future.

"'It could not be too clearly declared that the provinces, the districts, the populations which benefited by the reproductive works must be responsible for the expenditure incurred on account of them, and that this must not be thrown on the country at large or the system of general taxation.'

"There has been much discussion in regard to the manner in which this principle should be carried into practice. Although the procedure laid down in these sections of the Bill is absolutely just, and, so far as it goes, as it seems to me, beyond criticism, I do not pretend to say that, personally, I think it goes far enough. The Bill is, I think, needlessly tender when it provides that no compulsory rate shall be levied except on those owners of irrigable land the value of whose property has been directly increased by the canal, and who can certainly, by using the water offered to them, re-coup themselves for the charge that is imposed upon them. I think it would have been simpler, and quite equitable, to make the incidence of the rate much wider, and to impose it upon all property within the districts certainly benefited by the canal. My hon'ble friend, Sir Richard Temple, has already referred to the series of laws which have been passed for every province of India, laying down the principle that, if more roads and bridges and schools and hospitals and other works of local utility are required, they must be provided at the charge of the districts which want them,

and not at the charge of the tax-payers in other provinces. I cannot conceive why canals are to be an exception to this general rule. It is of course true that the benefits of canals often extend beyond the local limits of the country through which they pass. The same may be said of almost every great work of public utility; but there can be no question that no works exist of which the purely local benefit is so certain and so immediate as that of an irrigation canal. I will give an example: A few months ago an Act was passed authorizing the imposition, in the permanently-settled districts of the North-Western Provinces, of a rate of two annas on every acre of cultivated land, for constructing and maintaining roads and communications, for the police and district post, for schools, hospitals, lunatic asylums, markets, wells and tanks, and any other local works likely to promote the public health, comfort or convenience. I am altogether unable to understand how, if it is right to impose general local rates for such purposes as these, it can be wrong to impose them for works of irrigation, which afford absolute protection against famine, and which confer upon the people of the districts, through which they pass, benefits to life and property incomparably greater than those which any other public works can give. It must not be supposed that such rates would be heavy; they would never be required to meet the whole charges on account of the capital expended, but only to make good the difference between the actual income from the works, and the income required to protect the State against loss, and to secure the gradual repayment of the borrowed money.

"By no possibility could such a rate be heavy. I may give an illustration. It has been proved in the case of the greatest and most expensive project of canal irrigation ever proposed in Northern India—that of the Sardah Canal (I speak of the project in its original shape, for it has been subsequently greatly cut down)—that the financial success of the scheme could be placed beyond doubt, and a return of at least seven per cent. on a capital of £5,000,000 sterling be rendered certain, by imposing a general rate of one and a half anna, or about two pence farthing, per acre on the cultivated and culturable lands through which the canal will pass. The average rate at which the Government land revenue now falls upon these lands is about two rupees an acre. If this were increased to two rupees, one anna and six pies, the people on whom the rate was levied would be for the most part absolutely ignorant that any fresh charge had been put upon them, while they could not help knowing that they had received a blessing of almost incalculable magnitude. Surely this is a fairer way of protecting the finances of the empire against loss, than imposing taxes on the people of Calcutta, Madras and Bombay for the benefit of the people of Oudh.

"The present Bill, while it generally affirms this principle of local responsibility, applies it in practice only to a limited extent. These sections, as my hon'ble friend, Mr. Ellis, has observed, represent, in fact, a compromise between two opinions, both of which, however, admitted the general principle at stake. It has been thought better at present to confine the power of imposing a special water-rate to those cases in which it can be proved that the water might be taken with actual profit to the proprietor if he chose to take it, and that, after taking the water and paying the rate, the annual value of his land would be greater than before. Most elaborate safeguards have been inserted in the Bill to prevent the possibility of hardship to individuals. They are so elaborate that I am afraid it will not be easy to apply them in practice.

"They err, however, on the safe side. They are entirely in favour of the people and against the Government. My hon'ble friend, Sir Richard Temple, has already stated to the Council, and I therefore need not repeat, the conditions which must be fulfilled before this special rate on irrigable lands can be imposed. My hon'ble friend, Mr. Cockerell, quoted with approval, to the Council, a description of those conditions, from a despatch lately received from the Government of the North-Western Provinces. With your Excellency's permission I will again read to the Council the same passage:

"'As the Bill now stands, this extraordinary rate may be imposed on the report of an officer that the owner and occupiers of lands irrigable by such canal have not made reasonable use of the canal for purposes of irrigation.' * * * 'The measure will simply be based on the opinion that 'reasonable use' has not been made by the people of the canal, and, on this opinion, an agriculturist who never took a drop of water from the canal, or intends to take it, who finds, in fact, that it is not for his interest to bring water-channels to his fields, can be charged a special rate which may reach to two rupees an acre. The injustice of such a proceeding seems to be patent on the mere statement of it.'

"Certainly, my Lord, the injustice of such a proceeding would be patent; but why should the intention of any such proceeding be attributed to the Government of India? Not only has this Government never contemplated such injustice, but I affirm that there is not a word in this Bill to justify the charge. The simple answer to objections of this character is, that they are objections to propositions which have never been made, and to provisions which have no existence in the Bill; and that under no circumstances whatever will it be possible to impose the special rate upon any land, unless it can be proved, not only that it is irrigable from the canal, but that such irrigation will certainly increase its nett annual value. No rate can be imposed on account of the canal until the value of the land has been actually increased by the construction of the canal. This answer also completely meets the objection that the power

of imposing compulsory rates may encourage the execution of extravagant and unremunerative projects. It will be impossible for the Government to throw upon any one any loss arising from any such causes; for no one can be called on to pay who may not, if he chooses, derive a greater benefit from the canal than any charge which can be placed on him. It is said 'it would not be equitable to levy the special rate from those who never touched the water.' Now, I ask the Council whether something precisely equivalent is not done in hundreds of cases with which we are all familiar? I will give one illustration—the water-works of Calcutta. In this case, the Municipality—which, notwithstanding what has fallen from my hon'ble friend, Mr. Cockerell, on the subject of Indian Municipalities, I affirm to be virtually nothing more than a branch of the Government—borrowed half a million of money, and brought into Calcutta an excellent supply of pure water. To cover the charges for this work, a compulsory water-rate is imposed upon all owners and occupiers of houses in Calcutta. A few years ago, there was a violent opposition on the part of a certain very orthodox section of the community against the gross injustice of being made to pay for water they did not want, and which they would never touch. 'It is true,' they said, 'we could use this water if we chose, and you are pleased to think that we should be the better for it. We think differently; from time immemorial we and our forefathers have gone on without these new-fangled notions; you may say, if you like, that the water which we drink is a filthy fluid scooped up out of noisome tanks. We are satisfied with it, and we protest against the injustice of being made to pay for water which nothing shall induce us to use.' These objections did not prevail. The Government was not prepared to relieve these people from payment of their share of the water-rate. It virtually said to them, 'you can use the water if you like, and it will be as beneficial to you as to your neighbours to be saved from cholera, and to have your streets made clean and wholesome. We refuse, on account of your objections, either to throw an additional burthen on your neighbours who drink the water, or to tax people in other parts of India.' The objectors paid their water-rates, and now, I am happy to say, they have given up all their objections and have taken to drinking the water. The parallel is a perfectly fair one. We propose to do nothing more; we propose, indeed, to do very much less, in the way of imposing compulsory water-rates upon people who can, if they choose to do so, use the water to their own benefit, than has been done in Calcutta and Bombay, and in half the cities of the civilized world.

"But, my Lord, there is another reason of great importance, to which my hon'ble friend, Sir Richard Temple, has already referred, which makes it especially right to bring some pressure to bear upon agriculturists whose

ignorance or dislike of change lead them to delay in availing themselves of the benefits of irrigation which are offered to them. If these people only injured themselves, we might leave them alone. If the result of their refusal to use the water were only an additional pecuniary burden on their neighbours, or on the general tax-payer, the matter would be more serious; but still the loss would be one that could be measured in money. Unfortunately, this is not the case. These canals are primarily constructed to save the country from famine, and if the water is not taken, the country is not protected. Thus, the ignorance of the agriculturists, and their disinclination to adopt new systems of cultivation, defeat the object with which these great works are undertaken. It is a fact that has, in my opinion, been conclusively proved by experience in various parts of India, that it is mainly under the pressure of famine and scarcity, and failure of the periodical rains, that irrigation makes really rapid progress. So long as the seasons are tolerably favourable, people go on in their old ways, and do not take water from the canal. There comes a failure of the rains. Then there is a rush for water, and people learn the advantage of the canal. Having once or twice broken through their old habits, they give them up and continue to take the water regularly. But this experience is gained at a fearful price to the country. It is lamentable to think of the lives that have been sacrificed, and of the vast amount of property that has perished, during the last ten years, to say nothing of earlier periods, in consequence of the difficulty and slowness with which these ignorant peasants learn the real value of canal irrigation. The present sections may, I hope, act very advantageously in placing upon the owners of irrigable land, instead of the terrible pressure which is now brought to bear by natural calamity of season, a pressure of a different and purely beneficial kind. This pressure may induce them to co-operate with the Government in extending irrigation, and thereby obtaining for themselves, and for the country generally, the only effectual remedy against the utter ruin which too often falls upon them in the shape of famine.

"I have one other reason to give in reply to the objections that have been made to these sections. The power which the Government now proposes to declare that it possesses is in principle strictly similar to that which is recognized by the existing law as possessed by every proprietor of land. I believe this to be true of the whole Bengal Presidency. It is certainly true of Bengal and of the North-Western and Central Provinces. It has been ruled by the High Court of Allahabad that, when a landlord provides facilities for irrigation, of which his tenants with occupancy rights can avail themselves if they

choose—if, that is, the landlord at his own cost makes unirrigated land irrigable—he may claim an enhanced rent from his tenants.

'It is true,' say the High Court, 'that a landlord cannot compel a tenant to use water from wells or other works constructed for facilitating irrigation; but if a landlord construct such works, and provide facilities for irrigation of which the tenants may, without expense, avail themselves; if he brings the water to their holdings, we are not at all prepared to hold that he could not, after the service of a proper notice, enhance the rent-rates paid by tenants of the holdings to which such facilities were given, up to the rates paid by tenants of a similar class, holding *lands with similar advantages*, in places adjacent. A tenant of unirrigated land, if his landlord makes that land irrigable without cost to the tenant, must pay at the rates paid by other similar tenants for irrigable lands in the neighbourhood. If this were not allowed, landlords would have no motive for improving occupancy holdings, a conclusion at which we should arrive with much reluctance.'

"Nor is this all. It has been ruled by the High Court that a 'proprietor is clearly entitled to claim an enhanced rate of rent in consequence of the productive powers of the land having been permanently increased by the proximity of the Ganges Canal, independently of the agency of the ryot.' So, also, it has been, on more than one occasion, ruled by the High Court of Calcutta, that a tenant is liable to enhancement of rent when the productive powers of his land have been increased by improvements constructed at the cost of Government. It comes therefore to this. The Government, the chief landlord of the country, asks only for a power which private landlords possess already. If the Government makes a canal, and water becomes available for the irrigation of an estate, the private landlord may say to his tenant—'Why do not you take the water that is at your disposal, and thus increase the productive powers of the land which you occupy? Why, on account of your neglect, and of your bad husbandry, am I to suffer, and get from you only the rent of unirrigated land? Take the water and increase the value of your holding, and pay to me in future a rent proportionate to the real value which the land now possesses, and equal to that which good tenants, your neighbours, who have availed themselves of the advantages offered to them, pay for similar land close by.' The Courts would support the landlord in his perfectly reasonable demand. We now ask the legislature to acknowledge that the State possesses similar rights, and that it may equitably demand to receive from those who are virtually its tenants, a similar return for the improvement by which it has permanently increased the value of the land.

"My Lord, I have only one thing more to say. My Hon'ble friend, Mr. Cockerell, has told the Council that there have been many protests and expressions of disapprobation against this Part of the Bill from many eminent public

officers. I admit that the high authority of Sir William Muir may be quoted in support of the views of my hon'ble friend. But with this exception, to which I fully concede that high importance must be attached, I venture to assert that it would be difficult to quote a longer list of eminent names in favour of any great measure which has lately come before this legislature, than can be quoted in support of the main principle involved in these sections. I will not refer to the opinions held by your Excellency, or by any one who is now a member of this Council. But it ought to be remembered that the justice of the principle now under discussion was admitted and advocated by Sir Henry Maine, by Sir Henry Durand, by Lord Sandhurst, and by Sir Donald McLeod; that it has been accepted by three successive Lieutenant-Governors of the Panjáb, and by three, out of the four, Local Governments of Northern India."

His Excellency THE PRESIDENT said:—"I am content to leave to public judgment, in reference to the important principles involved in this measure, the statements that have been made to-day by my colleagues.

"I am glad a discussion has taken place, because the principle which is contained in portions of this Bill has been for some time rather lost sight of; and it is a matter of satisfaction to me that an opportunity has been given to those who think them right and sound to explain them in the able and complete manner as has been done to-day.

"I have really little to add to what has been said in the discussion now about to close.

"I will not refer to the amendment immediately before the Council. It appears to meet with little favour. At this I am not surprised, for it suggests that this Council should discuss, in the enforced absence of those who are best informed and most interested in the matter, a question which most intimately affects, and affects only, the province in which we sit.

"It seems to me that the observations of my honourable friend contained, from the beginning of his speech to the end, an enunciation of principles which, if they were carried into effect, might prove the doom of those great works in which we are engaged.

"It is twenty-five or thirty years since great irrigation works were begun in Northern India; the circumstances of the country are much changed since then. At that time they were conducted on no distinct financial principle; the annual expenditure was not very large, the money to carry them on was generally found according as it was wanted, and the payments on account of

interest had not become serious in amount; but, as the wants of the country developed, and the great and important character of these works was perceived, all wise men who looked to the future of our financial position discovered that, if these works were to be carried on at all, they must be continued on a fixed principle.

"Government then determined on distinguishing the expenditure involved thereon from the ordinary expenditure of the year.

"In that they recognised the principle that these great works should be carried on only on the assumption that they were to be, to a great extent, reproductive, and that their finance was to be, as far as possible, separated from the ordinary finance of the empire.

"The principle involved in the clauses which have been so much discussed to-day, and which contain, to a limited extent, the principle of a compulsory rate, is nothing more or less than the logical consequence of the policy which has been adopted for some years with regard to these great works—the principle that local works of a beneficial character should be, as far as possible, defrayed from local resources.

"It is said that this is a question of principle as between the Government of India and some of the Local Governments. For my own part, I cannot too strongly express my satisfaction at having heard from the most distinguished member of the Local Administration, that the clause does not in any way involve a question of principle as between the Supreme and Local Governments. But if we talk of a principle of this kind being discussed between the Local Governments and the Government of India, without laying myself open to any accusation of presumption, I may say that it is the Government of India whose duty it is mainly to decide. The Government of India appears in this case in the joint capacity of a body who are responsible for the general interests of the country, who represent that co-partnership in the land, which is the property of the public, and who are also in the position of the lender who has to lend trust-money for certain purposes, and whose duty it is to see that it is lent on good and sufficient security.

"Therefore, as between the Government of India and the Local Governments, I am bound to say the position of the Government of India, and the responsibilities which attach to it, are tenfold greater than any responsibility that can possibly attach to a Local Government in such a matter.

"I know that we are as anxious as any Local Government that these works should be carried out to the utmost extent.

"I do not believe that any Government that ever ruled in India recognised more thoroughly than we do, the enormous advantage of these great works of irrigation, and the paramount duty that lies upon us to promote them by every means in our power.

"But we believe that, by adopting these principles of sound, and, perhaps, apparently severe, finance—and by no other means—the certainty of a continuance of these works can be secured. We believe that if you attempt to throw upon the general resources of the empire at any time huge burdens in the shape of expenditure, which will necessitate unpopular, onerous and almost impossible, taxation, the certain result of such a step will be the stoppage of all useful works.

"The extent to which this good principle ought to be carried out is, according to my view, not sufficiently developed in this Bill; but the measure is good as far as it goes, and I believe that, in its working, it will have the double effect of making those under whose authority and under whose direction these works are constructed very much more careful as to economy and efficiency of construction than they would otherwise be; and it will also have the effect of affording to the Government, which is only another term for the general public, great additional security against loss.

"If it has that effect, it will be impossible for any future Administration materially to limit the construction of irrigation works which are wisely designed, and which can certainly be completed without immoderate charge upon our annual revenues.

"It has been said that, if errors in design and mistakes in construction occur, the incidence of re-payment should be changed and placed on the shoulders of the people at large.

"I can see no force in that argument, and really, when we come to details, we find that the officers who conduct these works, and are really entrusted with their construction, and to whose errors and mistakes (if they occur) misfortunes must be attributed, are more under the influence of the Local Governments, than under that of the Government of India.

"Who are the officers who are now conducting these works? The officers of Local Governments; and, though these officers require no such incentive to the due exercise of their duties, still, the fact of their being officers of the Local Governments, and under the control of the Lieutenant-Governors and Chief Commissioners of those provinces in which the works are undertaken, must have the effect of making them careful and energetic.

"I think that is sufficient to shew that there is no strength in the argument that, because it is possible that errors in design and mistakes in construction may be committed by the officers of Provincial Governments, therefore, the whole people of India should pay.

"It has occurred to me through the whole of this discussion that a sort of anxiety is apparent that, in an expenditure which is incurred for the sole benefit of a particular class or district, some other class or distant province ought to partake in the liabilities, and should, under certain circumstances, be made to pay.

"This puts me in mind of the old saying of Sydney Smith—'Charity is common to mankind. A sees B in distress, and he is most anxious that C should relieve him.'

"I cannot help thinking that this is the sort of feeling which underlies many of these propositions, and there is an intention or a hope, that those who benefit should pay a good deal, but that, under certain circumstances, others should be bound to contribute.

"I do not think that any great undertaking, whether it is in private or public hands, can ever be successfully carried on, on such principles.

"My hon'ble friend, Mr. Strachey, has alluded to a most apt parallel, in quoting the Calcutta water works.

"It is the principle which has been adopted with success, not only in India, but in Europe, where it has always been laid down that, where a great local work is undertaken for the benefit of the majority, there is nothing improper—nay, that there is absolute justice—in making every one who may be benefited pay his share, whether he accepts the boon derived from the undertaking or not.

"The principle has been carried out in all our great works at home. It would never have been admitted for a moment that, if, for instance, a great drainage canal is made across a man's estate, which must enrich him as well as all his neighbours, and if he prefers to leave his land to the occupation of wild ducks and snipes, instead of growing clover and corn, therefore he is to escape paying his share for a boon by which the whole country is benefited.

"I believe this principle can, through the agency of our officers, be carried out without the smallest particle of oppression.

"I rejoice to hear from my hon'ble colleagues, the Lieutenant-Governor and Mr. Egerton, that the desire for obtaining water will be so great in the Panjáb, that it is probable that a compulsory rate will never be necessary.

"I believe that; and I do believe at the same time, that the value of laying down this principle by an Act in this Legislative Council is so great, that such assurances, however gratifying they may be, ought to have little weight with us. We are quite justified in adopting a general principle of justice and right as a precaution, notwithstanding that it is possible it may never be necessary to carry it into practical effect; but I believe that the knowledge that this principle is involved in the Bill, and may be enforced, will render the people more disposed to take the water; and we know that experience goes to show that, if once water is taken by the cultivator, the use of it is seldom completely renounced.

"I have only to repeat my belief that, if a strict, sound and straightforward system is pursued with regard to these works, they will go on, be self-supporting, and will create no future difficulty for the Government; but I believe at the same time that, if you endeavour to adopt the hap-hazard principle by which there is to be any uncertainty as to your security for these vast loans, and as to how and when and by whom such works are to be paid for—if a system of scrambling finance is to be adopted with regard to them—they will become a source of serious difficulty and much damage, and that those who resist such wise and necessary precautions and oppose measures similar to this (though they may have the best intentions) are really obstructing, hindering and possibly endangering, the future success of the most beneficent undertakings that any Government has ever promoted for the welfare of its people."

The amendment was then put and the Council divided—

AYE.	NOES.
Hon'ble Mr. Cockerell.	His Excellency the President.
	His Honour the Lieutenant-Governor of the Panjáb.
	Hon'ble Mr. Strachey.
	Hon'ble Sir R. Temple.
	Hon'ble Mr. Stephen.
	Hon'ble Mr. Ellis.
	Major General the Hon'ble H. W. Norman.
	Hon'ble Mr. Egerton.

So the amendment was negatived.

The Hon'ble MR. EGERTON'S motion was then put and agreed to.

The Hon'ble MR. STEPHEN, with the permission of His Excellency the President, moved as amendments—

That the following clause be added to section eight, after clause (3) :—

"(4). Injury done in respect of any water-course or the use of any water to which any person is entitled under the law relating to the acquisition of ownership by possession :"

Also that the following clause be added to the same section, after clause (*e*) :—

"None of the advantages referred to in the above clauses (*a*), (*b*), (*c*), (*d*) and (*e*), shall be deemed an easement."

The Motion was put and agreed to.

The Hon'ble MR. EGERTON then moved that the Bill as amended be passed.

The Hon'ble MR. COCKERELL moved, by way of amendment, that sections 44 to 49 inclusive be omitted, and that the numbers of the subsequent sections be altered accordingly.

MAJOR GENERAL the Hon'ble H. W. NORMAN said that, after all that had passed with regard to this important measure, it was with much reluctance he was bound to express himself in support of Mr. Cockerell's amendment. He believed that, by the retention of the clauses under discussion, not only much injustice and, perhaps, oppression would arise, but much discouragement would be thrown upon irrigation projects generally; for it was quite clear that those who considered these clauses applicable to the Panjáb should endeavour to extend them elsewhere, and this no doubt would throw cold water upon the desire which now existed for various irrigation extensions. It seemed presumptuous in him to express an opinion contrary to these clauses which had received the sanction of the high authority of the Mover and, he understood, of the Lieutenant-Governor; but, having given a good deal of consideration to the subject, he felt he was bound to do so. While thoroughly agreeing with His Excellency as to the necessity for all irrigation projects being based upon sound financial principles, it seemed to him that these clauses were not required in aid of those interests or of those of the tax-payers. If anything of the kind were required, he believed that the clauses in question would be quite insufficient for the purpose. While they were unnecessary, they would be made the instruments of oppression, and, certainly, a means of holding out threats and of causing considerable apprehension.

He (MAJOR GENERAL NORMAN) was not aware that it was the case that, in any well-projected and well-constructed work of irrigation, devised to meet an actual want, there had been any want of financial success or a real backwardness on the part of the people in taking the water when once the canals had been brought into operation. While admitting that the clauses were guarded by some judicious restrictions, it did not seem to him that they guarded sufficiently against the evils to be apprehended. He also observed that, while a person could be compelled to take the water, these provisions did not appear to offer him any remedy against the Government in case the supply of water failed. It was a matter of great regret to him that His Excellency the Commander-in-Chief was not able to be present to give the Council the benefit of his experience of canals, both in the Panjáb and elsewhere, particularly as the Council must be aware that, from what His Lordship had said on a previous occasion, he would view the introduction of these clauses with much regret. The Hon'ble Member concluded his remarks by supporting Mr. Cockerell's motion.

The amendment was put and the Council divided—

AYES.	NOES.
Hon'ble Mr. Cockerell.	His Excellency the President.
Major General the Hon'ble H. W. Norman.	His Honour the Lieutenant Governor of the Panjáb.
	Hon'ble Mr. Strachey.
	Hon'ble Sir R. Temple.
	Hon'ble Mr. Stephen.
	Hon'ble Mr. Ellis.
	Hon'ble Mr. Egerton.

So the amendment was negatived.

The original Motion was then put and agreed to.

The Council adjourned to Monday, the 30th October 1871.

SIMLA,
The 26th October 1871.

H. S. CUNNINGHAM,
Offg. Secy. to the Council of the Govr. Genl. for making Laws and Regulations.

Office Supdt. Govt. Printing.—No. 6977 L. D.—5-12-71.—200.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Simla on Monday, the 30th October 1871.

PRESENT:

His Excellency the Viceroy and Governor General of India, K. P., G. M. S. I., *presiding.*

His Honour the Lieutenant Governor of the Panjáb.

The Hon'ble Sir Richard Temple, K. C. S. I.

The Hon'ble J. Fitzjames Stephen, Q. C.

The Hon'ble B. H. Ellis.

Major-General the Hon'ble H. W. Norman, C. B.

The Hon'ble F. R. Cockerell.

The Hon'ble R. E. Egerton.

INDIAN WEIGHTS AND MEASURES OF CAPACITY BILL.

The Hon'ble MR. STEPHEN moved that the Report of the Select Committee on the Bill to regulate the Weights and Measures of Capacity of British India be taken into consideration. He had stated fully, on former occasions, the circumstances under which this measure was introduced: no alteration had been made in the original Act except to remove from it those portions to which the Secretary of State had objected; and it was therefore unnecessary for him to trouble the Council with any further statement on the subject.

The Motion was put and agreed to.

The Hon'ble MR. STEPHEN also moved that the Bill be passed.

The Motion was put and agreed to.

LAND-REVENUE PROCEDURE (PANJÁB) BILL.

The Hon'ble MR. STEPHEN moved that the Report of the Select Committee on the Bill for consolidating and amending the law as to Land-Revenue Procedure in the Panjáb be taken into consideration. He said:—"Although I have on a previous occasion stated at considerable length the reasons which made legislation on this subject necessary, and the principles on which that legislation should proceed, I fear that I shall have to trespass a second time upon the patience of your Lordship and the Council, in order to explain and justify certain modifications which have been introduced into the Bill in the course of its consideration by the Select Committee. That Committee, as I need hardly remind your Lordship, had the great advantage of having amongst its

members the Lieutenant-Governor and the Financial Commissioner of the Panjáb. It had also before it the opinions of all the principal revenue officers of the province, and it has sat almost daily for the greater part of each day ever since it was originally named. I hope, therefore, that the Bill will be found to be complete.

"The alterations introduced by the Committee into the draft originally laid before them and printed in the Gazette involve some important questions of principle, and I will examine them in succession in the order in which they stand in the Bill. The first of these modifications consists of the addition of section nine to the original draft. That section is as follows:—

"'The Local Government shall, with the previous sanction of the Governor General in Council, give written instructions to the officer in charge of a settlement, stating the principle on which the revenue in such settlement is to be assessed. No Court of Justice shall be entitled, under any circumstances, to require the production, or shall permit evidence to be given of the contents, of such instructions.'

"The object of this provision is to lay down, in the broadest and plainest language, the principle that the assessment of the land-revenue is a matter of imperial concern and of the very first importance; and that though, for administrative reasons the nature of which is sufficiently obvious, it is necessary to leave the management of it to a very considerable extent in the hands of the Local Governments and of settlement officers appointed by and answerable to them, it is equally necessary that the highest authority in India should decide upon and should prescribe the principle on which the amount of revenue to be taken should be assessed. It would be impertinent in me to insist upon the obvious truth that the utility, and even the security, of the British power in this country is mainly a question of finance, or upon the almost equally obvious truth that the land-revenue is the backbone of our financial system. As far as I can judge, it would appear to be the only branch of the revenue to which we can look for permanent and steady, though it must in the nature of things be a very gradual, increase; and it is certainly the only very important branch of revenue in which our constant efforts to increase the moral and material welfare of the community produce an immediate definite money return. This being so, it would certainly appear that the matter had been left in the hands of isolated officers to a degree which can hardly be regarded as expedient. I have been informed that, some years ago, the then Lieutenant-Governor of the North-West Provinces lowered the land-revenue payable by considerable parts of those provinces from sixty-six per cent. to fifty per cent. of the net produce by a stroke of his pen. It is matter of notoriety that all over Northern India, and more especially in the Panjáb, eager

discussion has long been, and still is, in progress, upon the question whether the assessments are too low or too high. I have no right to express, or even to entertain, any decided opinion upon the subject, but of one thing I am very sure. Whatever may be the true principle of assessment, the assessment ought to proceed upon principle, and the highest attainable authority ought to decide what is to be the principle on which the assessment is to proceed. If this is not done, and if security is not taken for it by a deliberate and solemn provision of the legislature, the practical result will be, that every settlement will depend upon the theory which the settlement officer—very probably quite a young and inexperienced person—may happen to hold upon the question of landlord and tenant, the nature of landed property and other kindred topics—topics open to as much discussion, and to as many changes of opinion, as any questions whatever. The object of the Committee in inserting the provision in question in the Bill has been to provide the best security in their power against the evils which might arise, and which had arisen, from allowing individual settlement officers to give such very extensive, and it might be such very mischievous, effect to the views which they might happen to hold upon these subjects.

"The next point on which the draft has been modified is the legal effect of entries in Records of Rights. The Council will remember that I originally proposed that the entries in Records of Rights should become conclusive after five years as to the truth of the matters which they stated, unless they were disputed successfully within that period. This provision, with others, was intended to remedy defects in Regulation VII of 1822, which had disclosed themselves with startling distinctness and with very bad consequences in the controversies which terminated in the enactment of the Panjáb Tenancy Act a little more than three years ago.

"I described Regulation VII of 1822 in introducing this Bill, and I may add to what I then said that it appears to me to have been drawn with singularly little reference to anything beyond the settlements which were then in contemplation. Not only does it fail to say distinctly what is to be the legal effect of entries in the Record of Rights, but it does not provide in any way for the case of a second settlement, or say to what extent the officer in charge of such a settlement is to be bound by the entries of his predecessor, and to what extent he is to be at liberty to re-open questions on which his predecesssor had already made a record. The Bill now before the Council provides for all these matters in the most explicit manner. Its provisions are in substance as follows:—

"Records of Rights are to consist of certain specified documents which are to be prepared, signed and attested in a manner to be prescribed by the Local

Government. They are subject to revision by the settlement officer until they receive the final sanction of the Local Government, which may be given, separately, either to the assessment or to the Record of Rights. The Local Government will have the power, by withholding their sanction for a reasonable time—a year or two if it thinks it necessary—to test the degree of accuracy with which a Record of Rights has been prepared; and it will be in its discretion, if it thinks that the work has been negligently or inaccurately done, to have the record revised from time to time, either by the original officer or by another, until a degree of accuracy has been attained which it considers sufficient to warrant sanction. When, however, final sanction has once been given, the Record of Rights will be unalterable. The Deputy Commissioner will be charged with the duty of making, through the Kánungos and Patwáris, a record of all facts which may occur subsequently to the completion of the record—such as sales, deaths, or the judgments of courts—and these yearly papers, as they are called, will supply the next settlement officer with the materials for the amount of revision which he is permitted to make. His power will be as follows:—He may revise the record by making entries in accordance with facts which have happened since the last settlement, or entries to which all the parties interested consent, or which represent the judgments of courts of law. He may also, if the Local Government so directs, make new maps and surveys and correct the entries affected by them, but not so as to affect any person's share or holding or his status. The Record of Rights will thus be binding on subsequent settlement officers, and such proceedings as produced the controversy which led to the Panjáb Tenancy Act will for the future be impossible.

"So far, the Committee have thought it not only safe and desirable, but absolutely necessary, to go, in the direction of making the Record of Rights final and conclusive. I had suggested, as I have already observed, that we should go a step further, and make the entries conclusive evidence of that which they assert after a period of five years. This proposal was most carefully considered by the Committee, and most of the revenue officers who were consulted upon the Bill expressed their opinions upon it. They were, I may say, unanimously of opinion that such a provision would produce a great deal of injustice; and after very full consideration of the subject and repeated discussions upon it, the Committee determined to adopt the view which is embodied in the Bill as it stands. This view is, that the entries made in the Record of Rights should be presumed to be true, and should thus throw the burden of proof on any person who might be interested in denying them, but that they should not be regarded as conclusive. My individual opinion upon such a subject is obviously unimportant; but looking upon the question merely as a question of evi-

dence, I must say that I was convinced of the wisdom of this modification. The reasons alleged by the various revenue officers in support of their view were shortly as follows:—They said that the people were so inaccurate and unbusiness-like, that they were so anxious to say whatever they supposed themselves to be expected or wished to say, and, above all, that they were so anxious to get rid of the trouble of inquiry and to have done with the settlement officer and his subordinates, that their statements could not be depended upon. To this the settlement officers added, that the lists stating individual rights had, in many instances to be made up by subordinate officers, and were verified by the officer in charge of the settlement in a very imperfect manner in the cases in which no dispute arose which had to be judicially determined. These undisputed cases form, of course, the very great numerical majority of the total number of cases recorded. Other considerations besides these must be borne in mind. I do not for a moment depreciate or underrate the value of finality in proceedings of all kinds, and especially in matters like these; but finality is not the one thing needful. It is our English way to be peremptory and decisive. We always like to do a thing and have done with it in all departments of life, and we had rather suffer a good deal of injustice than be exposed to what to us appears the greatest of all inconveniences—delay, suspense and uncertainty. The natives of this country, from all that I have been able to hear, take things of all kinds a great deal more quietly; do not set the same value on time and on decision, and are by no means equally averse to leaving things more or less at a loose end. I do not see why we should not recognize this state of feeling, or why we should try to hurry the people out of their natural pace.

"Apart from this, it must be carefully borne in mind that, whatever may have been the case at the first set of Panjáb settlements, of which I shall have more to say immediately, subsequent Records of Rights have been, and will hereafter be, made rather in the interests of the revenue than in the interests of the revenue-payers. The people are, no doubt, accustomed more or less to the system, and they do not resent—at all events they submit to—an inquiry which has for its result the preparation of a Record of Rights which stands as evidence of the facts recorded. If, however, we were to go further and make the Record of Rights absolutely conclusive as to those rights, we should inflict a great hardship on the people; no less a hardship than that of making the immediate litigation of every possible question which can be raised upon land compulsory, under the penalty of losing every right which is not then asserted. Let us for a moment consider how such a process would operate in England. Suppose that a settlement officer

were to be sent into an English county with authority to compile an exact account of every right existing over the land, and suppose, further, that notice were given to every one concerned that the record so framed would be conclusive; the result would be a mass of litigation by which the courts would be choked, though indeed the proposition would be so inconceivably and intolerably unpopular that it is impossible to imagine that it should ever be listened to. I do not see why people in this country should consider it less oppressive than it would be considered in England to be called upon to litigate every claim upon which they ever intended to insist at any time or under any circumstances, simply because, at a particular period, the Government was desirous of revising its revenue arrangements.

"This remark brings me to a point on which I am particularly anxious to avoid any sort of misconception—the relation of this Bill to the Panjáb Tenancy Act. The enactments of which I have been describing the effect are capable of being represented as jarring with that Act, and representing a different line of policy. Indeed one of the sections of the present Act expressly modifies section two of the Panjáb Tenancy Act, so as to make its operation retrospective only. I am very anxious to make it as clear as I can that the difference between the two measures is apparent only, and not real; that the present Bill in no way conflicts with the Panjáb Tenancy Act, but on the contrary confirms and carries out its policy, though it does incidentally supersede one of its provisions, by the manner in which it disposes of the whole subject at part of which that provision incidentally glances. In order to explain this, it will be necessary to say a few words on the scope of the Panjáb Tenancy Act, not with any controversial object, but merely in order to show distinctly how these two measures are related to each other.

"It is impossible to read either the Panjáb Tenancy Act or the debates upon it and not to see that it was a measure intended to meet and dispose of a pressing practical question which had arisen in consequence of certain proceedings of the settlement officers, and not a comprehensive piece of legislation upon settlement law. Moreover, it was, and was admitted to be, a compromise between two opposite views of the subject. In a few words, the matter stood thus. In the first Panjáb settlements, which on an average had preceded the Panjáb Tenancy Act by about sixteen or seventeen years, a very large class of persons had been recorded as being tenants with a right of occupancy. At the settlements which immediately preceded the passing of the Act, the officer in charge of the settlement, acting under Regulation VII of 1822, set aside the old settlement records altogether;

re-opened the question whether the tenants recorded as having a right of occupancy were or were not entitled to such rights; and decided that large numbers of them—many thousands, Sir Henry Maine said as many, I think, as 40,000—were mere tenants-at-will. Two views were taken of this proceeding. On the one side, it was considered that this was a wholesale destruction of rights of long standing, which had been created under the guarantee of British Courts of Justice, at a time when there was hardly anything in the whole country which deserved the name of a legal right, proprietary or otherwise. On the other side it was considered that the original settlement records had been negligently made; that in particular they virtually set aside the rights of a class of superior proprietors; rights which had been forcibly held in abeyance during the Síkh rule, but which were still remembered and valued, and which, under our system, had again become valuable and ought to have been protected.

"These were the opposite views, each of which was very vigorously expressed in the debate which took place here three years ago. The Act was a compromise between them. On the one hand it defined, with a precision never attempted before, the relations of landlord and tenant and the rights of occupancy tenants; and on the other hand it contained a provision in Section two, which declared that, as to certain matters connected with that relation, the entries in settlement records should be regarded as agreements. It did not say this quite in so many words, but this I think is the clear effect and meaning of the section in question. Whether it was intended to be prospective as well as retrospective is perhaps open to question. It was at all events intended to be retrospective; and the effect of it, therefore, was to confer a character of conclusiveness on a very great part, at all events, of the entries made in the different Records of Rights then in existence. Whatever may have been the legal purport of the actual words employed, it does not admit of any doubt whatever that the measure was framed with a view to existing facts; that the principal intention of it was to put an end to what was regarded as an extremely serious practical question. The general subject of the effect which ought to be given to Records of Rights in general was not at that time under the consideration of the Council as it is now, and the result is, that the expressions used by the hon'ble members who took part in the debate, as to the judicial character of Records of Rights, must be construed with reference to the particular Records of Rights of which they were speaking, that is to say, those which were made at the first Panjáb settlements.

"With these remarks I proceed, with your Lordship's permission, to read some observations made by my hon'ble friend and predecessor, Sir Henry Maine,

upon this subject; remarks which might possibly be quoted as showing the change of policy of which I have denied the existence. Sir Henry Maine said—

"'At the first settlement of the Panjáb, the officers employed did not merely, as in older Indian settlements, construct a record which was only a *primâ facie* description of the rights therein described. The Panjáb officers were invested with judicial powers, and the Civil Courts were carefully excluded from interference with their decisions, which when given on merits became the decisions of Judges. Of course I do not mean to say that they adjudicated in every case. No court of justice ever adjudicates in more than the minutest fraction of the cases really, though indirectly, affected by its jurisdiction. But it is clear that everybody, landlord or tenant, had an opportunity of coming forward to assert his rights in litigious form, and had power to appeal from decisions which he thought inequitable, and every decision of the Settlement Courts must have indirectly disposed of thousands of cases not actually brought before them. I can scarcely conceive any stronger guarantee given to these rights. A Parliamentary title to property is necessarily somewhat arbitrary; but when a Government sets its courts of justice in motion for the affirmation of rights, bringing them to the very doors of claimants and opponents, it gives a moral guarantee of the highest order.'

"This, it may be argued, is a distinct assertion that an entry in a Record of Rights ought to be regarded as a judicial decision, not to be set aside or contradicted on any subsequent occasion. I do not think that this was Sir Henry Maine's meaning. I think that he meant to say merely that, under the peculiar state of circumstances to which I have already referred, the particular set of entries which had been made in the particular set of papers in question ought to be respected by the legislature as much as if they had been judicial, and deserved to be put by legislation on that footing if legislation was necessary for that purpose. This is obviously quite a different thing from saying that all entries made in all settlement records ought to be regarded as judicial decisions or contracts recorded in an authoritative manner. It was not necessary to Sir Henry Maine's argument to say more than what I have suggested, and I do not believe that he intended to do so. Indeed, I think that what he did say would be open to a good deal of criticism if it was not regarded as being confined strictly to the particular case in question. Upon this, however, I need not enter, as it would be collateral to my main object.

"The justification of Sir Henry Maine's views, thus interpreted, is to be found in the description which was given by himself, and, at the close of the debate, by Lord Lawrence, of the state of things under which the settlements, which immediately succeeded the conquest of the Panjáb, took place. We found the country in a state of chaos. The Síkh Government had so managed its affairs as to render it altogether doubtful whether the notions of legal right and private property existed at all in the country, or had been altogether

subverted in it. The first object of our rule was to provide some sort of order, and to revive, if not to create, those elementary ideas which form the necessary basis of anything like a stable or prosperous state of society. The first Panjáb settlements were made with a view to this state of things. They were no doubt intended by their authors to form a sort of Doomsday Book for the Panjáb; to supply what an English lawyer would describe as a root of title. They were meant to settle—and practically they did settle—a vast mass of questions incapable of being settled by any other process than the one adopted. What the rights of the parties were before the first Record of Rights was formed would seem to have been an indeterminate problem, one which might have been solved in a variety of ways, according to the views and policy of the persons by whom it had to be solved. However this may have been, it was solved in one particular way by the formation of the Record of Rights, and it appears to me obvious that Sir Henry Maine was perfectly right in maintaining that, after that settlement had remained undisturbed and had formed the basis of all property in land throughout the Panjáb for sixteen or seventeen years, it would have been monstrous to permit it to be disturbed. The Panjáb Tenancy Act gave to it such a measure of validity as it appeared on the whole advisable to give, and nothing can be further from the intentions of the Committee in general, or from my own intentions as the member in charge of the Bill, than to interfere in any way whatever with the settlement then made, or to re-open the questions then decided. Our position is simply this: on reviewing the whole subject of settlement law, we do not think that it would be either safe or just to attach to all entries in Records of Rights any greater degree of importance than is assigned to them by the Bill. We do not think that every entry made by every officer whose duty it is to contribute to the preparation of a Record of Rights ought to be treated as a contract for the future; but we do not propose to re-open the questions settled by the Tenancy Act as to the past. It must be remembered that the very object which the authors of that Act, and Sir Henry Maine in particular, had most clearly in view was to give a fixed and permanent character to the rights guaranteed or created by the first settlements. But if we were to permit such rights to be taken away without remedy by an entry in a subsequent settlement, we should considerably diminish their value. Every argument, in fact, which can be used to show that some of the entries at the first settlements ought to be held sacred, is an argument against attaching an excessive artificial importance to entries made at subsequent settlements. Whatever may have been the case twenty-two years ago, rights of property are now in existence without any sort of doubt; their value is universally recognised; the proper means of preserving and vindicating them—resort to Courts of Justice—is universally under-

stood; and to have a universal re-settlement of rights, with compulsory litigation of every conceivable outstanding claim once in every generation, would be as absurd as to go on pulling out the teeth of a grown-up man at intervals of fifteen years, because, when he was fifteen years of age, it was necessary to pull out some of his teeth to make room for the rest.

"I now come to consider that part of the Bill which relates to the sale of lands for arrears of revenue. The Acts which regulate this procedure in the North-West Provinces are long and intricate. When they were passed, the Code of Civil Procedure was not in existence; but the provisions for the sale of land contained in the Code are, with very few exceptions, identical with those of the revenue sale law. In order to avoid needless intricacy in the law, we propose that the process of sale provided in ordinary cases by the Code of Civil Procedure should also be employed in the sale of lands for arrears of land revenue, with certain modifications of detail. In order to avoid the oppressive use of these powers, we propose that no sale should be allowed to take place without the special sanction of the Financial Commissioner. The subject is not one to which much importance can be attached, as sales for revenue are practically unknown in the Panjáb, and will, I hope, continue to be so. As to the method of procedure, there is really very little to choose between the North-West Provinces sale law and the Code of Civil Procedure, and I do not myself see that what little difference there is, is of any particular importance to the defaulter.

"The next point to which I have to refer is section sixty-five, which provides that no Civil Courts shall take cognizance of various matters specified therein, but that they shall be decided by the revenue authorities, amongst whom a regular course of appeal is provided, from the Deputy Commissioner to the Commissioner, and from the Commissioner to the Financial Commissioner. The matters from which the Civil Courts are thus excluded may be described shortly as being all matters connected with the formation of the Records of Rights, the right of particular persons to be settled with, the collection of the revenue, except in specified cases, and the decision of claims, as against the Government, though not as between individuals, to village offices. The effect of this section will be to avoid what I think must be felt as a great difficulty by every person who tries to understand the revenue system of the North-West Provinces.

"The difficulties of the subject may be summed up in the phrases, 'summary decision,' 'revenue courts,' 'revenue cases.' As far as I can understand the matter—and I am by no means sure that I do understand it—a summary deci-

sion is not, properly speaking, a decision at all; a revenue court is not a court, and a revenue case would not be a case, if it were possible to find any state of things to which that vaguest of words does not apply in some sense or other. At all events, this section will make matters quite clear in the Panjáb. There are certain specified matters which are to be disposed of by the revenue officers, and certain others which will be left to the ordinary civil courts or to the settlement officers in their judicial capacity, whilst their judicial powers remain in force. The section to which I have referred specifies distinctly what those matters are. One anomaly which I am told exists in the North-West Provinces will be completely avoided by this method of proceeding. An appeal may be brought from one revenue official to another, till the matter is disposed of by the Board of Revenue. Their decision may then be contested in the civil courts, and the parties may thus go on appealing till they get up to the High Court. There may thus be as many as five or six appeals in one case.

"The last provisions to which I have to refer are sections sixty-six and sixty-seven, which authorize the Local Government to make rules on a variety of matters connected with the working of the Act; give them six months to make such rules, and direct that the rules, when made, shall be annually re-published, arranged in the order of their subject matter, and amended up to date. Those provisions relate to those rules only which are to have the force of law.

"Upon these provisions I have several remarks to make. In the first place, I may refer to a criticism made on the draft Bill by an eminent Panjáb revenue official to whom it was referred for opinion. He said that, like Mr. Thomason's *Directions to Settlement Officers*, the Bill might be described as a 'set of affecting common places.' There is a freshness about this which it is impossible not to envy. The old lady who wept over the sweet word Mesopotamia was hard-hearted in comparison to a veteran settlement officer who is affected by a common place about a wájib-ul-arz; but I suppose that the meaning of the criticism (and, by the way, I wish publicly to thank the author of it for several valuable suggestions) was this—The Bill is too general in its terms. It does not enter sufficiently into detail, and it leaves unsettled many matters of great practical importance. I admit the fact, but I deny the inference that the Bill is defective. It is, and it was meant to be, very general in its terms. It does avoid detail. It does leave many important points to be settled by the Local Government. The reason of this is, that the operation of making a settlement is essentially an executive operation. It is not a matter which can be provided for beforehand by legislation in every minute detail. All that the legislature ought to attempt to do is, to lay down in a

plain and distinct manner the general outline and frame-work of the operation and the principles on which it is to proceed, leaving the Local Government to fill in such details as experience may show to be necessary. Of course, a person who, by many years of labour, has acquired a technical familiarity with all the minute details of settlement operations may see little importance in such an undertaking; but I think that it is possible to have too much, as well as too little, practical experience. A man may know each particular tree in a plantation so well that he forgets that there is such a thing as a general plan of the whole plantation. To those, however, who come fresh to the subject and wish to learn it; to those who have to superintend the administration of the system, to see whether it is working well or ill, and to amend its defects; to those who are responsible for its general results, and who have to see, on the one side, that the revenue gets its rights, and on the other, that the people are not oppressed— in other words, to the student, to the Local Government, and to the Legislature—such a scheme, if properly drawn out, may be of the very greatest value. I have no doubt that the excessive confusion into which the whole subject of land revenue law has from one cause or another been allowed to fall has had very bad practical effects upon the financial and social policy pursued by successive Governments in India. The law has been allowed to contract something of that character of an occult science, known only to experts, which attaches, for instance, to real property law in England.

"The minor legislation on this subject we propose to make over to the Local Government, subject to the provision that a new edition of such of their rules as are to have the force of law shall be published annually, amended up to date. The effect of this will be to prevent the growth of one of those anomalous masses of rules, circulars, explanations and so forth which have hitherto been such blots upon the administration of the land revenue. I hope your Lordship and the Council will observe that the provision to which I am now referring relates to those rules only which are to have the force of law. Nothing can be further from the intention of the Act than any interference with the ordinary authority of the Local Government over its own officers. This we propose to leave as we find it. Executive instructions will of course continue to be issued on such occasions, and in reference to such subjects as may from time to time appear desirable, and it would, I think, be natural and desirable that these instructions should enter upon a variety of topics which would be out of place in a law.

"I would suggest, for the consideration of my Hon'ble friend the Lieutenant-Governor, the importance of causing a new edition of the *Directions to*

Settlement Officers and Collectors to be prepared, or, rather, of having those works re-written with a view to the various changes which have taken place since their original publication. Such a work would, in my opinion, be of the highest importance, and I think that an officer of high standing and position might properly be employed upon the work. Good law-books are almost as necessary for the proper administration of the law as good laws. By a good law-book I understand, not one of those shapeless masses of ill-arranged detail which are commonly produced by English lawyers who wish to connect their names with a particular branch of the law; but books showing the principles on which a law is founded; giving that collateral knowledge, the existence of which the legislator assumes; describing the object which the legislator had in view in enacting particular provisions, and the means by which he hoped to attain them. I mean, in short, a work like those books of Mr. Thomason's to which I have so frequently referred, and not a shapeless mass of cases like somebody's edition of somebody else's edition of *Williams's Notes upon Saunders's Reports*, or a monument of ill directed ingenuity—as worthless intrinsically as a Chinese puzzle—like *Fearne's Contingent Remainders*. It appears to me that such a book as I suggest might be made with perfect propriety to combine an amount of information upon matters connected with the laws and customs of the Panjáb relating to land, and with the past and present administration of that and the adjacent provinces, which would be of the highest and most permanent value, not merely to those who have practically to administer the province, but to every one who is interested in understanding the nature and principles of our rule in India.

"With these observations, my Lord, I have the honour to move that the report of the Committee be taken into consideration."

His Honour THE LIEUTENANT GOVERNOR wished to say that, regarding the Bill from the point of view of the Local Government, he felt the utmost satisfaction at the prospect of its speedily becoming law. The present was the first attempt to put the collection of land-revenue on a distinct footing of legality since Regulation VII of 1822. That measure was, as was well known, the result of a tour made by Lord Hastings with Mr. Holt Mackenzie, in the course of which it was discovered that, in consequence of the intricate and obscure nature of our judicature, the numerous small holdings and interests in land could not be satisfactorily adjusted. Consequently, Regulation VII of 1822 was enacted; but it was framed on an imperfect knowledge of the country and people, and had to be supplemented by a large number of detailed instructions from the Local Governments before settlements could be effected by

the machinery it provided. One of its main defects was that it gave no judicial powers to the officers engaged in a settlement. Such officers had the power to pass what were called "summary" decisions, which could subsequently be contested in the Civil Courts. When the Panjáb was annexed, judicial powers were conferred on settlement officers, and consequently some of the entries made by settlement officers were no doubt of the same effect as judicial decrees, and the people who did not at that time bring forward their claims for adjudication created a presumption against the validity of their claims, which the Panjáb Tenancy Act had, as regarded several topics, rendered conclusive. But His Honour was satisfied that it was not desirable for the future to invest mere entries, arrived at without judicial investigations, with any technical effect: they raised a presumption of the truth of what they stated, but they were not conclusive proof of it. His Honour entirely concurred in the propriety of the principle of assessment being definitely settled on the occasion of each settlement by the Local Government in concert with the Government of India. It was highly desirable that a question so materially affecting imperial finance should be considered and determined by the same authority as was responsible for the financial equilibrium of the country.

As regarded what was sometimes called the "compulsory litigation" occasioned by settlements, His Honour was satisfied that some such process was inevitable. He remembered how in Oudh it had been originally proposed that no alteration in the record of rights should be recognized, except when made on a judicial decision; but it was found that the parties would not come into Court, and that the record would accordingly be very imperfect; the scheme had in consequence to be abandoned. The Bill, as now amended, would, he hoped, be of great usefulness to the Government of the country, and prove a new starting point for the revenue law of India. He considered that his hon'ble friend (Mr. Stephen) had laid the Panjáb under a deep obligation by the industry and skill with which this difficult measure had been conducted to so satisfactory a conclusion.

The Hon'ble Sir Richard Temple said:—"My hon'ble colleague Mr. Stephen, who has just spoken, is quite correct in saying that I have given a very reluctant assent to that portion of this Bill which relates to the record of rights (see sections twenty-one—twenty-four), and I now desire to explain the reasons for the views which I have held and still hold.

"It seems to me that a record of rights at a regular settlement must belong to one or other of three categories,—firstly, it may be a register having no judicial effect whatever, being simply evidence *quantum valeat,* as is the case in the

North-West Provinces, under Regulation VII of 1822; or, secondly, it may have absolute judicial effect, being conclusive, conveying a valid title by its entries throughout, not liable to alteration, save for correction of clerical mistakes or errors admitted to be such by the parties concerned, or under peculiar and exceptional circumstances; or, thirdly, it may be a compromise between the above two categories; that is, those entries which depend on a judicial decision shall be final, while all other entries are presumptive evidence only, which will be the effect produced by the present Bill.

"Now, I say that, according to the original intention of the Panjáb Administration, the record of rights was to come under the second of the above categories, that is to say, that the entries of all sorts were to be valid and conclusive; that the record, as a registration, was to have judicial effect; and that there was to be no alteration subsequently, save for the correction of mistakes acknowledged by all concerned or under extraordinary circumstances.

"In 1849, the Board of Administration declared their view thus (Circular 122 of 30th May)—'The Board are of opinion that disputes regarding rights in the soil can be satisfactorily disposed of in a new country by the settlement officer only * * * * in a settlement office, where less regard is paid to forms, and an arrangement by compromise or arbitration can generally be made.' Later in the same year the Board obtained regular judicial powers for the settlement officers. Then, in 1852, the Board in their first Administration Report thus described the scope and intent of the measure. They said (Panjáb Report, 1850-51, paragraph 293)—

"'One of the first acts of the Board was to obtain the sanction of Government to confine the decision of all questions connected with the landed tenures to the Settlement Courts. * * * * * * No settlement officer ever thinks of limiting his knowledge to formal proceedings placed before him; he is the umpire as well as judge in the question at issue, and it is his duty to search out and ascertain its real merits. He confronts the litigants; he closely and judiciously cross-examines; then places the point at issue, when necessary, before a jury of village elders, and even adjourns to the village and to the disputed spot, in an intricate matter, for the purpose of eliciting the truth. In this way a mass of cases will be disposed of, which, if brought before a more formal tribunal, would occupy the time of many Judges.'

"Then the Board annex a copy of the Jullundur Settlement Report, which they had caused to be 'printed for circulation amongt he officers in the Panjáb, as it clearly elucidates the system now in force.' Now, that Report termed the record of rights 'judicial registration,' and among other things went on to say—

"'During the latter portion of the settlement, endeavours have been made to dispose of all the minor disputes simultaneously with the preparation of the Khewat and Terij. When

the rough copy of the Terij had been drawn up, and sent for attestation to the judicial officer, and the whole village was in attendance, a number of cases were summarily decided by the arbitration of Lumberdars or others on the spot, and in the presence of the people. The result was recorded in a single Roobakaree, setting forth the circumstances of the claim and the manner of its decision, which in the ordinary course of litigation would have been expanded into a lengthy record, have taken up some time, occasioned the summoning of several parties.'

"Full effect was given to these principles in the Judicial Department by the Panjáb Civil Code in 1854. In Section I, Clause 4, it laid down that Civil Courts might not entertain a suit 'for any matter that may have been decided by any authority competent to try it. This clause will apply to decisions passed at a regular settlement.' The commentary attached to the Code explained that this ruling was founded 'on the principle that what has been done by one competent department need not be re-done nor re-considered by another.'

"All this appears to me to show that not only were the judicial decisions of the settlement officers to be respected by all other authorities, but also that the entries generally in the record of rights were to be accepted as valid and conclusive. Besides the wording of the intention which was sufficiently explicit, it followed from the nature of the case that such must be the effect. If only those entries on the record were to have conclusive validity which depended on regular judicial decisions by settlement officers, then many of their most important proceedings would be without such validity. Many of their largest decisions, most deliberately arrived at, and most assuredly intended to have permanent effect, and most formally attested, did, nevertheless, not take the shape of judicial proceedings as ordinarily understood; that is, the judgment might have been made without the filing of plaints and drawing of issues and writing of depositions. For instance, some coparceners in a village community, having been dispossessed during Sikh revolutions, apply to the settlement officer for restitution. The settlement officer arranges with the village community that they shall be restored; but as their holdings had passed into possession of the brotherhood, the restoration would involve some redistribution of lands and shares throughout the village. After much trouble this is done; the dispossessed sharers are restored; the new arrangements of shares and possession are formally agreed to by all the shareholders and attested by the settlement officer. Now, certainly, it was intended that such a proceeding should be judicially valid. But, strictly speaking, there was no judicial decision on record; it might not have been deemed necessary to record all the claims

and counterclaims, and all the disputes which the brotherhood by this large compromise had settled among themselves.

"Again, it was not uncommon for village communities to find that actual holdings of land by the sharers did not quite coincide with the ancestral shares; the land measurements helped in bringing out such discrepancies. The community, after much disputing before the settlement officer, agree to modification of the holdings. This is done and attested. Here also it was certainly intended that the settlement orders should be judicially valid, although there was no judicial decision in the ordinary sense, with plaints and rejoinders and depositions, on record.

"Further, there might be a question between a proprietor and a number of his subordinates as to whether they were occupancy-cultivators or sub-proprietors. The cases being many, but all alike, they begin by trying one case. That ends in the subordinate being declared a sub-proprietor and not an occupancy-cultivator. The proprietor, seeing this, ceases to dispute with the others, and allows them to be entered as sub-proprietors. The settlement officer, aware of all this, contents himself with attesting the proprietor's acknowledgment. It was certainly intended that this record should have judicial validity. Still, in most of the cases, there would be no regular judicial decision on record.

"Countless instances to the same effect might be adduced as to the relations between landlord and tenant; but I forbear from adducing them, because, as regards them, the Panjáb Tenancy Act has expressly given validity to the entries in the record made at settlement.

"Thus I show that the record of rights was clearly intended to have conclusive and judicial validity. In attempting to make such a registration, the Panjáb Administration undertook an arduous task in the interests of the people, in order that landed tenures might, in a country distracted by revolution, be settled on a permanent basis; that finality might be attained, not after a long period of disputes and troubles, but at an early period, that is, as soon as the settlement work could be carried out. The registration was to finally decide all things as they then stood. Whatever disputes might in after times arise were to be decided by the Courts on the basis of that registration. But the registration itself, so far as it went, was to be respected as conclusive. This was a policy, practically excellent and beneficent in design, though difficult of execution. It was partially executed; and, so far, it has contributed to that signal prosperity which distinguishes the Panjáb. Subsequently, events have shown indeed that its full and perfect execution was somewhat beyond our

power at the time. But I, for one, maintain that the policy was in itself the best possible, that it ought still to be followed, and that whatever remains undone in respect to its perfect execution might well be done now.

"But, as I shall show presently, the present Bill falls short of that policy, and this is the reason why my assent is so reluctant.

"I must first, however, trace the steps whereby this policy was departed from, until the record of rights wholly lost the status intended for it by the founders of the Panjáb Administration.

"Shortly after the first settlements were completed, many entries in the record of rights were found to need rectification. Wherever disputants tried to re-open matters in any way decided, on consideration, at the settlement, they indeed met with refusal. But it was often found that the people had made mistakes and oversights, regarding which mistakes all parties concerned were agreed; that errors had sometimes crept into figured abstracts of holdings and shares, which errors nobody denied.

"The occurrence of these errors was much regretted. No pains were spared by the Government of the day in selecting the best officers, both European and Native, for the work. The European officers have since proved their capacity in many other fields besides the Panjáb; the Native officials have since risen to the highest posts accessible to them in the public service. Neither was expense spared; for large and costly establishments were organized. The causes of error, no doubt, consisted in the novelty of the operation, in the unpreparedness of the people, in the extensive character of the amendment and redress needed after the troubles through which the landed tenures had passed. Mr. Stephen quoted incidentally passages from past debates—though not at all giving it as his own opinion—which stated, among other things, that the settlements had been negligently made, and that the attestations had been imperfectly carried out. I say, however, without the least disrespect to my hon'ble friend, who does not at all say that he believes these statements, that these expressions are wholly absurd and only show to what lengths people will sometimes proceed when speaking in the heat of discussions. The settlements were never negligently made; on the contrary, neither ability, nor labour, nór expense was stinted. The absurdity of the charge of negligence will be patent on the barest mention of names. Was, for instance, Mr. Prinsep, one of the officers engaged, ever negligent? Never; his high character for unremitting and assiduous thoughtfulness forbids the supposition. Were our hon'ble colleagues sitting here today, the Lieutenant Governor, Mr. Davies, and the Financial Commissioner, Mr. Egerton—both

among the officers engaged in these first settlements—ever negligent? The mere asking of the question, regarding such eminent persons, supplies the negative. I might easily extend the list of distinguished names, but forbear to trespass on the time of the Council. As for the attestations being imperfect, I have to say that in those villages of which I have cognizance, the attestations were made most carefully, man by man, holding by holding, by firstrate Native officials of judicial status; often there was re-attestation, by way of check, by an European officer. I have myself re-attested the records in many villages. No doubt the same precautions were taken in other settlements. Still, unfortunately, errors in detail became afterwards apparent.

"In such cases rectification became desirable, and accordingly instructions were issued in October 1856, see Circular No. 55. Shortly afterwards it was found that the wording of these instructions was too broad and general and might be construed to comprise more than was intended, and to admit of matters once settled at the settlement being afterwards re-opened. This tendency was, however, checked. For in 1858 (Circular No. 89) it was ordered that no alteration was to be made in the record without the express sanction of the Commissioner, and a procedure was laid down whereby the district authorities were to proceed before making any such reference to the Commissioner. It was reiterated that under no circumstances was a regular judicial decision passed at settlement to be interfered with. Thus the entries in the record, even though unsupported by judicial decision, were protected from alteration save with the Commissioner's sanction. Now the Commissioner had from the first been the appellate authority in all settlement affairs. He might on appeal, or other reference, have altered anything in the record, though by 1858 the period within which such appeal might be made had, in most cases, past. The effect of the order of 1858 was in some respects little or nothing more than the extending of the period of appeal. Thus the entries in the settlement record remained valid and conclusive, save in those cases where, on special reference, the appellate authority in settlement affairs might otherwise direct. Thus the original policy of the Panjáb Administration was really maintained and so continued till 1860.

"In 1860 a virtual change was made (Circular XXXIII of that year); the district officers were empowered to take up claims to rectification of record. One category of cases open to rectification was thus described in perhaps somewhat remarkable language—

"'The second class of cases will refer to omission of right not thought of or wilfully left out at settlement'.

"Now, really, these words appear to me to afford scope for the re-opening of matters deliberately and intentionally settled at the settlement, and to trench on the principle of the registration having been valid and conclusive. The wedge was introduced for the invalidation of the authority of the record. In justice to that circular, however, I must note that it set forth that 'changes should be made only on the clearest proof of error, within a fixed period and under competent guarantee and check.' Further, if the district officer thought an alteration desirable, he was first to make a summary enquiry, then to obtain sanction of the Commissioner to try the case regularly. Also I should clearly infer that, until an entry was altered with these formalities, it remained valid and conclusive. On the whole, I should say that the original authority of the record, though deviated from, was not abandoned.

"The author of this circular was Mr. Robert Cust, an old friend, for whom I entertain respect and admiration; and I naturally look to his other writings in order to understand his views. At page 82 of his Manual published in 1866, he adopts, for the record of rights in the Panjáb, the very definition in force in older provinces where the record is not valid nor conclusive, and is nothing more than evidence. It is in this passage described to be 'a basis of information regarding the precise subject of litigation,' as 'not to be taken as grounds for the decision of suits respecting land.' He then goes on to say—

"'This guarantee to the correctness and stability of the record is entirely wanting in the Panjáb, where vesting the settlement officers with powers of Civil Court, and the reservation of all decisions regarding land to the Revenue Courts, has greatly impaired the stability of landed titles.'

"Further on (page 119), he considers that Regulation VII of 1822 was in force in the Panjáb (though whether it was really in force became soon a moot point) and he recognises fully that this Regulation authorized indefinite revision of the record from time to time and the re-opening of questions as might seem proper to the authority of the day.

"Now, this view may or may not be correct, and I, for one, dissent from it. But at all events it is in direct variance with the views of 1849, of 1852, of 1854, of 1858, which I have been citing today. I think that the variation is to be regretted, and shows the necessity of legislation in order to preserve stability of purpose, evenness of course, and uniformity of design in Non-Regulation Provinces.

"And further, whatever might have been the intent of these orders, I believe that they did in effect contribute to what shortly afterwards happened,

when a very extensive revision was attempted of matters relating to landlord and tenant, which certainly had been intentionally decided at the settlement. That particular attempt at revision was, however, ultimately disapproved and stopped by the Government and the Legislature of India.

"After that came (the late) Mr. A. A. Roberts. I turn to his Minute at page 516 of the volume on tenant-right. He evidently considers that the whole record is open to revision from time to time, and so far he affirms the variation which had occurred. This was in 1868.

"Meanwhile, in 1865, the Panjáb Courts' Act was passed, which confirmed the power of settlement officers to regularly try and decide contested suits and nothing more. This, of course, must have precluded the notion of conclusive validity attaching to any entry in the record, not based on a regular decree.

"In 1868, the Chief Court of the Panjáb, writing about revised entries in the records, considered them to be 'nothing more than a superior description of registration,' and 'nothing more than revised records affording evidence, but not conclusive proof, of the title set forth.'

"I infer that the Court would not have attributed any different or higher character to the original entries in the record. Though I should regret that such views were entertained as to the want of authority in the record of rights, yet I could not be surprised at the doctrine as laid down by the Court after all that had occurred.

"Thus, as I conceive, the original declaration and intentions of the Panjáb Administration were lost sight of, the authority of the record of rights was lowered, and the record in the Panjáb reduced to the inferior status accorded to the record in the North-Western Provinces.

"To some extent (and as I think beneficially) the authority of the record was restored by the Panjáb Tenancy Act passed in October 1868 in respect to one important division, namely, the relation of landlord and tenant. By that enactment an entry in the settlement records was (except under certain specified contingencies) to constitute a title to occupancy right; also entries when duly attested were to constitute, legally, agreements, and to have the force of contracts. In all this there breathed the very spirit of the original Panjáb policy. Further, the Circular XXXIII of 1860, which opened the door to revision more widely than before, and which had acquired the force of law, was repealed by this Act.

"I certainly think that further legislation is now required to declare whether the record is or is not to be valid and conclusive; or if it is not to be

wholly valid, then how far it is to be valid. If not, we shall have the authorities in one decade of years declaring one thing, and the authorities in the next decade declaring another. The Bill today before the Council does supply indeed the requisite definition, and so far I support it, although the definition is not all that I could desire.

"In regard to change of opinion in these matters, I will quote the passage from Sir H. S. Maine's speech (in October 1868) already alluded to today. It runs thus:—

"'The land in India is the foundation of society, and it is asserted that every ten or fifteen years a number of gentlemen may go in and reconstruct society ..... There is not the smallest security for the principles on which such readjustment would take place ..... if these pretensions be allowed, and if the whirligig of Indian opinion goes round as rapidly as it has done in my time.'

"Again,

"'There is this further element of suspicion; of course, the word is not meant in any injurious sense. The old settlement reflected the ideas of property and tenant-right, which were then all but universal in India, and which nobody of much credit desired. .....The present proposals on the other hand fall in with the views which have recently become prevalent, and which have the support of great ..... interests in lower Bengal.'

"Again, in regard to the superior value of original records over revised records, I will quote a remark by Sir H. S. Maine—

"'In the Panjáb, as elsewhere, evidence grows weaker in proportion as it gets older ..... The motives to false testimony had vastly increased. Property in land, which had little or no value before annexation, has now a great and distinct value.'

"As practical legislators we are bound to recollect that a spirit of interference might easily actuate (I do not say that it does always actuate) even meritorious officers. The doctrine of finality in a record once made does in some degree preclude action on the part of those who come afterwards. The idea of actively potential authority to be exercised from time to time, without ever lapsing, is attractive often to the ablest minds. Indeed, the higher the zeal, the greater the public spirit of our officers, the firmer their faith in their own power of doing good, the more will the above view impress itself on them.

"I turn now to the Bill before the Council today. In the first place, I acknowledge fully, as just stated by Mr. Stephen, that it upholds and does not at all interfere with the Panjáb Tenancy Act. I am happy to acknowledge this having myself been, under direction of the late Governor General, the mover and defender of that Act.

"As regards the record of rights, in the first draft of the Bill now before us it was proposed that the Judicial decisions at the settlement should be as good as decrees in the Civil Courts; that a record of rights once made should not be liable to revision at any subsequent settlement save to record intermediate alterations by death, transfer and the like, or to make alterations agreed to by parties concerned; and that, with one reservation in favor of absentees; the entries in the record, after a moderate period of limitation, proposed to be five years, should be valid and conclusive.

"This proposal emanating from the Legislative Department was worthy of the breadth of view and the root-and-branch grasp of the subject, which always distinguishes our Hon'ble Colleague Mr. Stephen. On being referred to the local authorities, however, the proposal was objected to by the settlement officers, on the ground, mainly, that they found they could not in fact make an absolutely reliable record. I understand that they say, in effect, that the people are so careless and apathetic, so ready to say anything however inaccurate in order to be rid of the enquiry, so improvident as to the effect of what they may accept, so inefficient in aiding the investigation, that, despite all efforts, the settlement officers cannot prepare an entirely trustworthy statement of rights. I should, however, consider any such description to be one-sided and incomplete. The people may, no doubt, have these characteristics; but they have opposite and better qualities. Their tenacity, their long memory as to their rights, their regard for ancestral descent, their exact comprehension of coparcenary status, their respect for title to land undiminished by distance of time, by prolonged absence—are proverbial and notorious. Therefore, although they may be in some respects inapt and unfitted to help in forming a good record, yet in other respects they must be peculiarly apt and fitted. Although at first we failed in getting a comparatively perfect record, we may be capable of succeeding now, after more than fifteen years' experience, after availing ourselves of the work done in the first record, and considering that in the meantime the people have advanced so greatly in intelligence and education. I therefore must regard the admission which the settlement authorities now make, to the effect that they cannot make a perfect record, as an unfortunate one, not easily to be understood. I should have thought that they could now make a record virtually almost perfect.

"However, the contrary view has so far carried weight with the Select Committee of this Council that a revised proposal has been adopted. The judicial proceedings of the settlement by arbitration or by formal enquiry will be as good as decrees of Civil Court. The record once made at a regular

settlement cannot be revised at subsequent settlements save for insertion of facts which have subsequently occurred,—death, transfer, and the like. The entries in the record shall be presumed to be true until proved to be otherwise: and no alteration can be made save by order of Civil Court. No doubt these provisions which will pass probably into law today do afford important safe-guards to raise the record from the status to which it has of late years descended, and to remedy the defects incidental to the old system established by Regulation VII of 1822. So far I cordially concur. Still, however, an ordinary entry in the record is only to be presumed to be true. It may therefore be disputed in a Civil Court by any party who brings evidence to rebut that presumption. And in this country it is seldom difficult to procure some sort of evidence against even matters which have been carefully settled. Thus I fear that there remains a defect in the Bill as amended by the Select Committee. On the other hand, it is not easy to successfully rebut a presumption established by law, and this much of presumption will do good. We must be thankful even for that.

"*Actual* finality to the record, however, will only be obtainable by a Judicial decree. Therefore a settlement officer who wishes his work to stand and to be placed beyond the chances of dispute and the reach of litigation, should instruct claimants of all sorts to file their suits regularly and never to be content with compromises, or settlements, or promises. This will lead to increase of formal litigation at the time of settlement, but the consequence is a necessary one. Or if on a claim being made the parties shall agree, then the settlement officer should advise the parties to enter an agreement so formally and attest it so fully that it shall have in law the force of a contract. Failing all this, there is nothing left to the settlement officer but to surround his record with so many attestations that when hereafter in a Court of Justice the legal presumption of its truth shall be questioned, the said presumption shall be very hard to be rebutted. I earnestly hope that in this respect the settlement officers will be imbued with the same spirit as their predecessors; that they will strive to secure permanency and stability to their work, remembering that a registration of land tenure and title, which is liable to be disputed in the Courts, is an evil to the country. A registration which is not thus liable to be interfered with is a real blessing to the agricultural population.

"My own experience, now extending more or less over many provinces of India, convinces me that such a registration which cannot be interfered with, and which is from its merit worthy of that high status, would be one of the greatest benefits which the British Government could confer on an Indian population.

Its due preparation would be worth any trouble or expense within reason. I consider that it was (as is acknowledged) undertaken originally by the Panjáb Government, not so much in the interest of the State as in the interest of the people. If that undertaking be now persevered in, it will still be in the interest of the people and mainly in no other interest. I am not sure whether I rightly apprehend what fell from Mr. Stephen on this point, but it seemed to tend somewhat in a different direction. Be this as it may, however, I wish to say that the valid and conclusive registration is as much needed in the interest of the people now as it ever was, and our State interest in the matter is no stronger now than formerly. The fiscal interest, that is, the collection of the land-revenue, does not absolutely depend on such registration. That revenue is fixed on the land which is hypothecated for the payment. The collection is made from the actual possessor. Whatever other rightful claimant there may be, if there be an arrear of revenue due from a parcel of land, that parcel can be sold in recovery (however rarely such process be resorted to) whatever be the questions as to title.

"I cannot see any injustice (whatever may be thought to the contrary) in virtually compelling men to register their titles, on the understanding that the registration is to be valid and conclusive thereafter. A rightful possessor is not hurt thereby; on the contrary, he is benefitted, for his right is by the registration placed beyond the possibility of doubt or question. If a rightful claimant obtains hereby an opportunity of coming by his own again, that is well. Perhaps a possessor who has not right may have to give way to one who has; but here again there is not harm but good. I apply these remarks only to the Panjáb, the province under discussion. Mr. Stephen seems to me to argue to the contrary, relying on English analogy. Well, I will not try to follow him there. But I have understood that England perhaps does not afford the fittest example in this respect, and that in some other countries of Europe the principle of registration is more advanced.

"I have only one remark to add which is this—Mr. Stephen has justly adverted to the section of the Bill which provides that the local Government shall in the settlement of each district obtain the sanction of the Government of India to the particular principle on which the land-tax is to be assessed. This principle will vary in different parts of the country. The necessity for the local Government to obtain such sanction has not before been prescribed by any enactment. But in regard to the importance of the land-tax to the exchequer, it is well to insert a provision in the law. It is not, however, to be supposed that the Government of India does not otherwise possess, or has

not claimed, the power of executive interference in this important matter. Unquestionably we can sanction, or modify, or disallow, and we are always well aware of what is being done by the local Governments; indeed, the main principles on which the land-tax is fixed are usually notorious, even though specific sanction may not have been always obtained, and although the management of the land-revenue is the chiefest of those points wherein the Government of India justly relies on the vigilance and knowledge of the local Governments. Mr. Stephen no doubt correctly alludes to an instance wherein the local Government modified the principle without obtaining specific sanction of the Government of India: Still that proceeding must at the time have been well known to the Government of India as to everyone else; and had any objection been seen, there might have been interference; as there was not, we must presume that the proceeding was virtually allowed."

The Hon'ble MR. COCKERELL said :—" I wish to express my entire concurrence in the anticipation of His Honour the Lieutenant-Governor of the Panjáb, that this Bill is destined to mark a new starting point in revenue-settlement operations, not merely in the Panjáb, to which the measure is directly limited, but throughout the whole of India. The *general* importance of the Bill is the more marked, inasmuch as we are, I trust, on the eve of consolidating the entire Bengal Regulations relating to land-revenue; and although this Bill does not purport to effect anything like an actual re-enactment of those Regulations for application to the Panjáb, it may be said to contain an adaptation of their more important general provisions to the present state of things in that province, and to be consequently fit to take the place of the Regulations where the latter are in force. I know that, in in some quarters, it is accounted little less than rank heresy to suggest that there is anything obscure in the historically great and time-honoured Regulation VII of 1822, or that the style of that enactment is susceptible of improvement. Nevertheless, I venture to express the opinion, that this Bill for the first time sets forth the procedure for the settlement of the land-revenue in a clear and intelligible shape, and that, when its provisions come to be viewed and considered side by side with the Regulations, they will be generally admitted to be a desirable substitute for the latter.

" I feel considerable doubt as to the correctness of the conclusions expressed by my hon'ble and learned friend, the mover of this Bill, in regard to the provision of section two of the Panjáb Tenancy Act. My hon'ble and learned friend assumes, if I understand him rightly, that that provision was intended only

to apply to the records of former settlements. I should say that the contrary is to be inferred from the context of the Act. For, whilst the provisions in regard to occupancy rights are distinctly limited to the records of settlements made before the passing of the Act, no such reservation is made in regard to the provisions of section two; moreover, rights of occupancy are expressly excluded from the category of matters recorded at the time of settlement, which, under section two, were to have the force of agreements concluded between the parties affected by them.

"I at least always understood these provisions of section two of the Tenancy Act to have no limit as to their application to settlement proceedings, and strongly objecting to the affirmation by them of what I conceived to be a monstrously inequitable proposition, I moved their omission when the provisions of that Act were under discussion, and I have heard with no small satisfaction to-day those expressions of my hon'ble and learned friend on this subject which seem to justify the course which I then took.

"However the provisions of section two of the Tenancy Act may be construed, I need hardly add that I entirely acquiesce in the limitation placed upon them by section thirteen of this Bill.

"The hon'ble and learned mover, in referring to the provisions of the Code of Civil Procedure in regard to the sale of land as the latest conclusion of the legislature on this subject, apparently overlooked the later enactment Act XI of 1859, under which sales of land for arrears of revenue in Bengal proper where, probably, greater experience of what is needed in such cases has been acquired than elsewhere, are conducted. I have learned from the discussions which took place in Committee in regard to this subject that recourse to sales of land for the recovery of arrears of revenue in the Panjáb is almost unknown. As regards, therefore, the question of the best form of procedure to be adopted in this Bill, the point is of little practical importance."

The Hon'ble Mr. Egerton said that it would be unnecessary for him to detain the Council by any minute criticism of the Bill. The measure, as now before the Council, had his hearty concurrence. As to the provisions of section 9 there could, he thought, be no doubt as to the policy of putting a matter of such vital importance on the clearest footing. The land-revenue was the mainstay of the income of the country. This section would relieve assessing officers from a very serious responsibility, and would allow of the principle of assessment being varied in different parts of the country; it was most important that variations of this sort should be possible, as no one uniform rule could be devised which would be equally suitable for districts, the conditions of which were as widely different

as those of many of the districts in the Panjáb. What was called "the half assets principle" was extended to the Panjáb in a very informal manner: it was first announced in an order referring, not to the whole province, but to certain resumed muáfís, and was communicated to the settlement officer by the Financial Commissioner by letter, without any formal publication. This principle had been adopted in the Panjáb, simply because it was in force in the North-West, and it was in many respects not well adapted to the Panjáb. The effect of the present provision would be, that the principle of the assessment would, in the case of each settlement, be determined by the Local Government in concert with the Supreme Government, and that definite instructions would be given to the settlement officer as to the principles on which his assessment should be grounded.

As to the force to be given to entries in the record of rights, it would be dangerous, in MR. EGERTON's opinion, to allow the entries any other effect than that provided by the amended Bill. His hon'ble friend, Sir Richard Temple, considered that, in the old settlements, the Government had intended to give a conclusive effect to the entries, and that the entries had been made with sufficient care to allow of this being safely done; but MR. EGERTON was sure that, whatever might have been the care bestowed on the compilation of these records of rights, it had not, as a matter of fact, been sufficient to avoid mistakes. The agency was an untrained one; the people strange to the subject and not altogether friendly to the making of a record: a record made under such circumstances was under a great disadvantage, and could not fail to have numerous mistakes. Almost all the records of the first settlements in the Panjáb were inaccurate, and, in some instances, so serious was the inaccuracy, that Government had for years withheld its sanction from them, in order to allow of their correction. Even in the new settlements considering the speed with which the records were made, and the large amount of responsibility left to Native subordinates, it was inevitable that there should be mistakes; and if there were mistakes, it was highly undesirable to make the record conclusive, however great might be the advantages of a final adjustment of the rights in land. Finality given to an incorrect record was a far greater evil than the mere absence of finality. With a population such as that of the Panjáb, we could not proceed on the principle that, if a man neglected to get his rights duly recorded, he deserved to lose them: if, indeed, the people had demanded the record, the case would be different; but the record of rights was introduced altogether on the part of Government, without any sort of wish or even understanding on the part of those whose rights were concerned. Taken as presumptive evidence, these entries were most valuable; and it was open

to Government to enjoin such ample formalities, and to hedge every important entry with so many securities, that the presumption raised by it would be practically irresistible; but it was safer, in MR. EGERTON's opinion, to let the weight to be given to an entry depend on the degree of caution shown to have been bestowed upon it, rather than to attach to it a technical importance, which, though no doubt very convenient, must in frequent instances involve substantial injustice.

The provisions as to sales, in the amended Bill, were, he considered, ample. The sale of land in the Panjáb for arrears of revenue was happily unknown: and if at any time it should become necessary to enforce so undesirable a remedy, the sections of the present Bill would ensure that the law should not be put in action in a rash or oppressive manner.

Finally, the rules which the Local Government was empowered by the Bill to frame would, MR. EGERTON thought, be useful in giving an elasticity to the system, and in enabling the Government to adapt the working of the Act to the circumstances and wants of various districts, and to vary it as occasion might require. On the whole, he was sanguine that the present Act would be found to be a valuable assistance in the administration of the land-revenue of the province.

The Motion was put and agreed to.

The Hon'ble MR. STEPHEN moved the following amendment in clause (*c*) of section 19:—

"For the words

'provided that no such amendment shall conflict with the conditions of clauses (*a*) and (*b*) of this section'

"substitute the words

'but not so as to alter any statement as to the share or holding or status of any person, except in the cases mentioned in clauses (*a*) and (*b*) of this section.'"

The Motion was put and agreed to.

The Hon'ble MR. STEPHEN then moved that the Bill as amended be passed.

The Motion was put and agreed to.

BURMA COURTS' BILL.

The Hon'ble MR. STEPHEN moved for leave to introduce a Bill to regulate the Courts in British Burma. Some re-arrangement of the Courts in British Burma had been found necessary, and it was proposed to take advantage of the present opportunity to deal with the whole subject systematically, as had been already done for other provinces of the empire. If leave were now given, MR. STEPHEN would on a future occasion explain the details of the proposed measure.

The Motion was put and agreed to.

CIVIL COURTS' (OUDH) BILL

The Hon'ble MR. COCKERELL moved that the Report of the Select Committee on the Bill to consolidate and amend the law relating to the Civil Courts in Oudh be taken into consideration. He said, this Bill, originally designed for the consolidation of the several enactments comprising the law relative to the Civil Courts in Oudh, had developed into a scheme for effecting some very important modifications of the constitution and jurisdiction of those Courts.

As regards their cognizance of original suits, the proposed change was one rather of form than of substance; for, although the existing law provided for eight grades of Courts, there were in fact only six classes of Courts of different jurisdiction, *e. g.* (1) Tahsíldárs' Courts, with jurisdiction up to rupees 100; (2) and (3) Assistant or Extra Assistant Commissioners' Courts of the second and first classes, with jurisdiction up to rupees 500 and rupees 5,000 respectively; (4) Deputy Commissioners' Courts, with unlimited jurisdiction; (5) Commissioners' Courts, and (6) the Court of the Judicial Commissioner. The number of the Courts of the three highest grades remained fixed; but the number of the Courts of the Assistant Commissioners of the first and second classes varied according to the degree of competency and experience in judicial work possessed by the available Assistant Commissioners or Extra Assistant Commissioners in the province for the time being; the several Assistant and Extra Assistant Commissioners being vested with the jurisdiction and powers of Courts of the Assistant Commissioners of the second class or first class, in accordance with their respective qualifications for the exercise of a lower or higher jurisdiction.

The plan of the amended Bill was to treat the Courts of all Assistant Commissioners and Extra Assistant Commissioners as Courts of one grade, whilst, at the same time, power was given to the Chief Commissioner to extend, as occa-

sion might require, the jurisdiction of any of the Judges of such Courts, on the ground of personal qualification, in such a way as to bring the constitution authorized by the law as nearly as possible into accord with the system in force in Oudh at the present time.

In the matter of appellate jurisdiction, very considerable changes were provided for. In the Bill as introduced, the course of appeals was shaped to some extent on the principle of the system which obtained in the Panjáb under Act VII of 1868. A second appeal was to be allowed to the Judicial Commissioner on any ground, whether of law or fact, where the judgment of the Court of first appeal did not absolutely confirm the decree or order of the Court of first instance. But, where the judgments of these two Courts were concurrent, whilst no further appeal would lie on any matter of fact, the special appeal under the conditions of the Civil Procedure Code was to be still open in any case to which those conditions would apply.

But the Select Committee proposed to go a step further in the modification of the appellate system, and to abolish the right of special appeal altogether when the first appellate Court confirmed the decision of the Court of first instance; substituting, for such right of appeal, a power to the lower appellate Court to state a case, where it entertained any doubt in regard to a question of law or usage having the force of law, for the consideration and opinion of the higher appellate Court.

There was nothing new in the principle of this proposed change; it was that which governed the procedure in the disposal of cases cognizable by a Small Cause Court, and although the application of it to the far more important cases to which it would be extended by this Bill was unquestionably a very considerable step in advance, the advance was, MR. COCKERELL felt confident, in the right direction. Indeed, he looked forward to see this change of procedure now about to be experimentally introduced into Oudh very generally adopted at some future period in other parts of the empire.

When introducing this Bill into the Council, he suggested that, as one effect of the proposed changes in the appellate system would be, perhaps, to overburden the Court of the Judicial Commissioner, it would be necessary to consider what means could be devised for strengthening that Court, not only for the disposal of the extra quantity of work that would be thrown upon it, but also in regard to such intricate cases and complex questions as might be expected to come before it occasionally, and on which it might be especially desirable to obtain a decision of greater weight than attached to the opinion of a single officer.

Some provision for such an emergency was the more necessary, in that, up to the time of the abolition of the office of Financial Commissioner and the repeal of Act XXXVII of 1867, the Judicial Commissioner had assistance to fall back upon in any case of perplexity, and that, too, at a time when the pressure of work was not so great as it was likely to become under the operation of this Bill.

It was at first proposed to appoint a Commissioner, as Extra Judicial Commissioner, to undertake the duty which formerly devolved on the Financial Commissioner in such cases under Act XXXVII of 1867, and also to revive the further procedure prescribed by that Act in the matter of references to the High Court of the North-Western Provinces in certain contingencies; and this course found favour with the local authorities.

On mature consideration the Select Committee determined that there would be no special advantage in associating a Commissioner, the subordinate under ordinary circumstances of the Judicial Commissioner, with the latter, for the trial of cases involving points of such difficulty that the Judicial Commissioner, presumably the more competent officer, felt himself unable to decide; and that delay would be avoided and a more practical result attained by the reference of such cases direct to the High Court, in the manner prescribed by Act XXXVII of 1867 as an ultimate measure.

The effect of the provision of the amended Bill, in this matter, was to transfer the appeal in such cases from the Court of the Judicial Commissioner to the High Court of the North-Western Provinces, except that the decision of the latter Court, in respect of the case referred, would be treated in all respects as if it had been passed by the Judicial Commissioner.

For the mere disposal of arrears of ordinary business pending in the Court of the Judicial Commissioner, the Bill provided for the appointment of a Commissioner as an Additional Judicial Commissioner.

There was considerable obscurity in the existing law on the subject of jurisdiction in regard to suits relating to land arising in any district in which a settlement of the land-revenue was in progress. By Act XVI of 1865, all such suits were removed from the cognizance of the ordinary Civil Courts to the 'Revenue Courts,' and the Governor General in Council was empowered to invest any officers with the powers of Courts of first appeal, the final appellate authority being the Financial Commissioner. Now, the remarks of his hon'ble and learned friend (Mr. Stephen) on the subject of Revenue Courts, in connection with the other Bill which had been considered to-day, were singularly

pertinent to the present case; for there were not, and never had been, except for the purposes of the Rent Act (XIX of 1868), any 'Revenue Courts' in Oudh, and it had consequently been left to the Executive to determine what officers should do duty for such Courts, and to assign to them the pecuniary limits of their jurisdiction.

For this state of things, which had no proper legal basis, it was proposed, in section twenty-six of the amended Bill, to substitute a power to the Chief Commissioner, with the sanction of the Governor General in Council, to invest officers engaged in making or controlling settlements with the powers of any Civil Court below that of a Judicial Commissioner, for the trial of suits relating to land in districts under settlement. It was further provided, in case the judicial work thus devolving on the settlement officers should be more than they could dispose of with reasonable dispatch, that the Chief Commissioner should have the power of re-transferring any such suits to the ordinary Civil Courts.

For the purposes of this special jurisdiction in regard to suits relating to land, it was declared that a district should be deemed to remain under settlement until the Governor General in Council should otherwise direct.

We proposed to omit the provisions of the original Bill on the subject of taking oaths or making solemn affirmations on accession to judicial office. They were introduced as part of the usual furniture of 'Courts' Acts'. It was thought, however, that this practice of taking oaths of office was of the number of those ancient customs which were more honoured in the breach than in the observance, and, in fact, there could be little doubt that, since the enactment of the Penal Code, this attempt to get a sort of artificial security for a public officer's honest discharge of his duty was wholly superfluous.

The other alterations appeared to call for no special observations; they related to matters of detail and had for the most part been suggested by the local authorities. There was one proposal made by them which we had been unable to adopt; we were asked to apply the method of regulating the valuation of suits prescribed by the Court Fees' Act to the determination of jurisdiction under this Bill.

In the first place, this mode of determining jurisdiction had not yet been fixed by law in respect of the Courts of any other provinces; but the chief objection was, that the plan of the Court Fees' Act, though suitable for revenue purposes, could not be reasonably followed in all cases with the object of determining jurisdiction. There were many suits not susceptible of other than

a purely arbitrary valuation, and for those, an institution fee of fixed but very moderate amount was prescribed by the Court Fees' Act.

If the regulating principle of that Act was adopted for the determination of jurisdiction under this Bill, how could it operate satisfactorily in such cases?

There might be diversity of practice now, but it could hardly be remedied in the way proposed. An almost unlimited general authority over the proceedings of the lower Courts was assigned to the superior Courts, under which they would be fully competent to regulate the dertermination of jurisdiction, and it was better not to attempt to fix by enactment any rule which could not meet all cases.

He (MR. COCKERELL) had only to add that the Chief Commissioner and Judicial Commissioner of Oudh were understood to concur generally in the provisions of the amended Bill.

The Motion was put and agreed to.

The Hon'ble MR. COCKERELL also moved that the Bill as amended be passed.

The Motion was put and agreed to.

The Council adjourned *sine die*.

SIMLA,
The 30*th October* 1871.

H. S. CUNNINGHAM,
Offg. Secy. to the Council of the Govr. Genl. for making Laws and Regulations.

Office Supdt. Govt. Printing.—No. 6210 L. D.—7-12-71.—200.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Government House on Friday, the 8th December 1871.

PRESENT:

His Excellency the Viceroy and Governor General of India, K. P., G.M.S.I., *presiding.*

The Hon'ble John Strachey.

The Hon'ble J. Fitzjames Stephen, Q. C.

The Hon'ble B. H. Ellis.

The Hon'ble F. R. Cockerell.

The Hon'ble J. F. D. Inglis.

The Hon'ble W. Robinson, C. S. I.

The Hon'ble F. S. Chapman.

The Hon'ble R. Stewart.

The Hon'ble J. R. Bullen Smith.

The Hon'ble MESSRS. CHAPMAN, STEWART and BULLEN SMITH took the oath of allegiance, and the oath that they would faithfully discharge the duties of their office.

ADMINISTRATOR GENERAL'S ACT EXTENSION BILL.

The Hon'ble MR. STEPHEN, in moving for leave to introduce a Bill to extend the operation of Act XXIV of 1867 to certain Native States, said, the object of this Bill was to extend the operation of the Administrator General's Act to the collection of the effects of British subjects dying in Native States. The Act did not, it appeared, extend to the collection of the effects of British subjects dying in Native States. But it was obvious that, in the present state of things, this ought not to be; and he therefore moved for leave to bring in this Bill.

The Motion was put and agreed to.

SUNDRY BILLS.

The Hon'ble Mr. Stephen also moved that the Hon'ble Messrs. Chapman, Stewart and Bullen Smith be added to the Select Committees on the following Bills:—

To define and amend the Law relating to Contracts, sale of Moveables, Indemnity and Guarantee, Bailment, Agency and Partnership.

To define and amend the Law of Evidence.

To amend the Law of Insolvency.

For regulating the procedure of the Courts of Criminal Judicature not established by Royal Charter.

Also that the Hon'ble Messrs. Inglis, Robinson and Chapman be added to the Select Committees on the following Bills:—

To legalize marriages between certain Natives of India not professing the Christian Religion.

To amend Act No. V of 1840 (concerning the Oaths and Declarations of Hindoos and Mahometans).

Mr. Stephen proposed to take the opportunity afforded by this motion, not to raise a discussion in regard to these Bills, but to make a few observations as to the stages at which they had arrived, and in regard to certain points connected with them, to which he wished to give as much publicity as he could at the present time.

The first Bill, to the Committee upon which Hon'ble Members were to be added, was the Contract Bill. The state of things in regard to this Bill was as follows:—The Bill had been before the Council, as the Council was probably aware, for between four and five years. It had been referred for the opinion of the persons most competent to give an opinion on the subject, throughout India. Matters connected with it had been discussed with the Secretary of State; it had been carefully considered in all its details by the Committee, which at one time consisted of nearly every Member of the Council; and, finally, a reference was made to the Secretary of State upon certain points connected with the Bill, as to which there was difference of opinion, in the Spring of the year 1870. On the 23rd of February 1871, a despatch was addressed by the Secretary of State to the Government of India in the Legislative Department, which arrived here in due course, shortly before the Government left Calcutta for Simla last Spring. After referring to certain

amendments which were proposed by the Select Committee, upon which difference of opinion had arisen between the Government of India and the Local Governments, the despatch concluded thus:—

"I consider on the whole I shall best consult the interests of the public by leaving the question of their adoption or modification to the decision of Your Excellency in Council. Under these circumstances I trust that a contract law for India will be enacted at an early date."

The intimation contained in the concluding words of this Despatch amounted to an expression of the Secretary of State's wish that the Contract Law should be taken up and disposed of as early as possible. The delay which had occurred since the receipt of that Despatch would be explained by the reply to it which the Government of India had sent to the Secretary of State, and in which they stated that they did not wish to dispose of a matter of such importance, applying to the whole country, except at Calcutta; but that, on the return of the Government to the Presidency, the Bill would be proceeded with forthwith. The opportunity afforded by that delay had been taken to introduce some amendments, principally in matters of expression and arrangement, and also to add to the Bill one or two points. He hoped these additional matters might be readily disposed of by the Committee, and that the Bill might be afterwards passed into law, if the Council thought fit, in a very short time.

The next Bill, to which he had to refer, was the Evidence Bill. He need not say anything more about it, than that it was under the consideration of the Committee. He, however, wished to make one or two remarks. In the first place, although the matter had excited a great deal of public attention and much discussion, and although the Bill had been sent for the opinion of the Local Governments some time in June last, with a request that their opinion on the subject might be forwarded in the course of the Autumn, many of the Local Governments had not yet sent in any opinions whatever on the subject. He earnestly hoped that these opinions might be received in order that they might be fully considered. Some memorials had been received on the subject from individuals, especially from certain members of the Bar. He did not wish to discuss them. But he wished to say that he thought that the opinion of some persons, that the Council in general, and MR. STEPHEN in particular, were animated by some feeling of hostility against the Bar, was perfectly unfounded, and was almost as unnatural and absurd as that His Lordship, the President, should be accused of a strong prejudice against Irishmen, or that any other of MR. STEPHEN's colleagues should be accused of prejudice and dislike against the Civil Service. He was the last person in British India who had any right or any wish to make an attack upon the members of the

Bar. Everything that had been said upon the subject of this Bill would receive most earnest and careful attention in a perfectly fair and friendly spirit, without the slightest notion of making any attack upon the independence or position generally of the honourable profession in question.

The next Bill upon which he had a word to say was the Insolvency Bill. This was a Bill upon which the Government had received a considerable mass of opinions from various persons, and very grave questions indeed had been raised regarding it. The gravest of those questions was whether the Bill ought to extend beyond the Presidency towns. Considerable doubts had been intimated, as to its suitability even to the Presidency towns, by a considerable number of persons whose opinions were entitled to great respect, although the balance of opinion was the other way. He might state, with regard to this Bill, that he did not think it was of equal general importance, or equally necessary to be disposed of, with the other two Bills which he had mentioned. However, it was in a forward state, and would be considered, but it was very possible that the Committee might not proceed with it at present. At all events, he wished to say publicly that this Bill was in a less forward state than the others to which he had referred.

Another Bill, to which he would now refer, was the Bill for the re-enactment of the Code of Criminal Procedure. On that Bill the Committee was actively engaged, and in reference to it he had a remark to make of considerable public importance. The Committee had received a large number of opinions from the Local Governments and persons connected with the administration of justice in reference to it, and, amongst others, they had received a most important paper from the Government of Bengal. That paper contained a suggestion that European British subjects should be made to a great degree amenable to the ordinary criminal courts of the country.

The present law on the subject was this. Out of the Presidency towns, European British subjects were liable only to the jurisdiction of Justices of the Peace to an extent specially defined in the statute 53rd of Geo. III, cap. 155, and were liable only to a fine, or, in default of payment of the fine, to simple imprisonment for two months. The suggestion of the Bengal Government was, that this state of things should be altered, and that European British subjects should be rendered liable to punishment of a more severe character. Now, he should not at present express any opinion or enter in any way into a discussion upon the subject; nor did he think it necessary to trespass upon the time of the Council by reading out the whole of the despatch of the Government of Bengal upon the subject. Means would be taken to bring it to the notice of the Council

and of the Local Governments. He mentioned this fact thus publicly, because it was eminently desirable that the public should not be taken by surprise in a matter of this kind; that they should be made aware of the fact that such a suggestion had been made and was under consideration; and that they should express their opinion on the subject. It was also intended to request the Local Governments specially to express their opinion on this point, and he mentioned all this, because, when he introduced the Bill now before the Committee, this was not one of the points to which he specially directed attention in his speech. It had, however, been brought before the Council by the Bengal Government, and it would be left to the Committee to consider what was to be done in the matter. As he had said, he mentioned this publicly in order to give the public at large notice that they might express their views upon the subject. There were some other points of importance which would come up for consideration, but he did not think that they were of such a character that he need refer to them on this occasion.

With regard to the next Bill, it was also one that had been a long time before the public, and he hoped it might be speedily disposed of. It was a Bill to legalize marriages between certain Natives of India not professing the Christian religion. It was a Bill introduced by his predecessor, Sir H. Maine, at the end of the year 1868, three years ago. It was subsequently modified and assumed the form of a Bill to legalize marriages between members of the Bráhma Samája, whose position as to marriage occasioned the introduction of the Bill. Subsequently, objections were taken to the Bill as modified, by one of the sections into which that body was divided, who considered it would be injurious to their interests. In deference to their objections, the Bill was further considered and postponed, and since that time he was happy to say that he had been in communication with gentlemen who represented both sections of the body in question—the body called the Progressive Brahmists (he did not know whether they were properly so called) and the Adi-Bráhma Samája. He was very happy to be able to announce that, after a good deal of discussion on the subject with those bodies, the Committee had been able to devise a measure with which they expressed themselves completely satisfied, and against which, he thought, no other person would be found to take any solid objection. He hoped this Bill would be very speedily disposed of, and that the Council would be able to pass it into law. He would have to trespass upon the time of the Council at considerable length when the Report of the Committee came on for consideration, and, therefore, would not take up its time at present.

The other Bill, regarding oaths and declarations, required no remarks from him at present.

The Hon'ble MR. CHAPMAN desired to avail himself of this early opportunity to state it as his decided opinion that the revised Code of Criminal Procedure should be made applicable, without distinction, to all Courts in British India. He considered that any measure that fell short of this would be unsatisfactory and incomplete.

The Motion was put and agreed to.

INDIAN CHRISTIAN MARRIAGE BILL.

The Hon'ble MR. COCKERELL moved that the Bill to consolidate and amend the law relating to the solemnization in India of marriages of persons professing the Christian religion be referred to a Select Committee with instructions to report in two months. He said that the Bill had been already introduced and published, and at the time of its introduction he had explained the few amendments of the existing law for which it provided.

The most important of these was in regard to the certifying of marriages between Native Christians under Part V of Act V of 1865.

By that Act, if the persons intending marriage had attained the age of sixteen years in the case of the male, and thirteen years in that of the female, the marriage might be certified without any reference to the consent of parents or guardians. This was, as MR. COCKERELL thought, most justly represented to be a great hardship where the parties to such marriages were minors, and had, up to the time of the marriage, lived with or under the control of their parents or guardians.

To meet this defect in the present law, it was provided in section fifty-four of the Bill, that—

"no marriage shall be certified under this Part when either of the parties intending to be married has not completed his or her eighteenth year, unless such consent as is mentioned in section eighteen has been given to the intended marriage, or unless the party who has not completed his or her eighteenth year is proved, to the satisfaction of the person licensed to grant certificates under section nine, to have resided apart from, and to have been independent of the control of, his or her parents or guardians."

The intention of this was to make the consent of parents or guardians an essential condition to the legal contracting of marriages between minors, in those cases in which the parents or guardians ought obviously to have a voice in the matter, without at the same time imposing the obligation of serving notices, which would be burdensome to the poorer and more uneducated classes who formed the bulk of the Native Christian community, and which it was doubtless a main object of past legislation on this matter to avoid.

The Bill was published some weeks ago, but MR. COCKERELL had not yet seen any expression of opinion as to the sufficiency of the amendment to which he had just adverted.

It would probably be necessary to invite specially the opinions of the President of the Society at whose instance this amendment was undertaken, and of some of the missionary clergymen who were best acquainted with the circumstances of the persons who were chiefly affected by it.

The Hon'ble MR. STEPHEN said he wished to make one remark with regard to this Bill, with reference to a clause which he thought it would be necessary to add to it in consequence of certain matters which had come to notice recently; and that was, that a declaration should be inserted in the Bill, making it perfectly clear and beyond all doubt that no European British subject, and no person who by his law of domicile was a monogamist, should be permitted to acquire the right to commit polygamy by any change whatever of his religious opinions. A case had occurred, in which a man had been known to become a Muhammadan obviously for the fraudulent purpose of acquiring, as MR. STEPHEN thought utterly wrongly, a right to break the most solemn contract which one human being could possibly form with another, by introducing to the wife a second woman, or a third, or a fourth for that matter, who would have a legal right to be on the same footing as the first wife. He hardly liked to trust himself to say what he thought of such conduct. It appeared to him to be a complication of bigamy, adultery, and as gross a breach of faith and contract as it was possible for a human being to commit. And he also thought that, in a moral and civilized society as this was, we ought not to allow any misconception on this point; that although we ought not to interfere with Native institutions for which we were in no way responsible; although we would faithfully and honourably administer the Native law which we found in the country, we did not on that account undervalue our own English and European law, as it applied to men who by their birth and breeding were subject to it. He could not admit, and he never would admit, that the institution of monogamy was one which depended in any degree upon a man's theological opinions. And he could not admit that an Englishman was to be allowed to escape from the obligations which he had contracted under the law of England by any change, real or pretended, in his religious opinions. He proposed, therefore, when the Bill was in Committee, to insert in it a declaration which he believed to be absolutely in accordance with the existing law, and which he believed any Court of Justice would hold if the matter were brought before it, that if a man, being a European British subject, had once contracted a binding monogamous

marriage, he was not at liberty to absolve himself from the obligations of that marriage, in consequence of any change in his religious opinions.

The Motion was put and agreed to.

LOCAL EXTENT ACTS BILL.

The Hon'ble MR. COCKERELL also moved that the Hon'ble Messrs. Inglis, Robinson and Chapman be added to the Select Committee on the Bill for declaring the local extent of certain Acts passed by the Imperial Legislative Council.

The Motion was put and agreed to.

NATIVE PASSENGER SHIPS ACT AMENDMENT BILL.

The Hon'ble MR. CHAPMAN, in moving for leave to introduce a Bill to amend Act XII of 1870, the Native Passenger Ships Act, said that Chapter II of the present Act contained very stringent provisions for the protection of Native passengers; but the Law officers of Government considered these provisions applicable only to sailing vessels and not to steamers. Now, the class of people who required to be specially protected were pilgrims proceeding to Jedda and other ports in the Red Sea, *en route* to Mecca; and as it was understood to be a common practice to convey them in steamers, it was advisable to extend the provisions of the Act to this class of vessels.

The Motion was put and agreed to.

The following Select Committee was named :—

On the Bill to consolidate and amend the Law relating to the solemnization in India of marriages of persons professing the Christian religion—The Hon'ble Messrs. Stephen, Inglis, Robinson, Chapman and Bullen Smith and the Mover.

The Council adjourned to Friday, the 15th December 1871.

CALCUTTA;
The 8th December 1871.

H. S. CUNNINGHAM,
Offg. Secy. to the Council of the Govr. Genl. for making Laws and Regulations.

Office Supdt. Govt. Printing.—No. 6216 L. D.—8-12-71.—200.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Government House on Thursday, the 21st December 1871.

PRESENT:

His Excellency the Viceroy and Governor General of India, K. P., G.M.S.I., *presiding.*

The Hon'ble John Strachey.
The Hon'ble Sir Richard Temple, K. C. S. I.
The Hon'ble J. Fitzjames Stephen, Q. C.
The Hon'ble B. H. Ellis.
Major General the Hon'ble H. W. Norman, C. B.
The Hon'ble F. R. Cockerell.
The Hon'ble J. F. D. Inglis.
The Hon'ble W. Robinson, C. S. I.
The Hon'ble F. S. Chapman.
The Hon'ble R. Stewart.
The Hon'ble J. R. Bullen Smith.

INLAND CUSTOMS BILL.

The Hon'ble SIR RICHARD TEMPLE, in moving for leave to introduce a Bill to consolidate and amend the law relating to Inland Customs, said it would be in the recollection of the Council that, a few months ago, he had obtained leave to introduce a Bill to provide for some slight amendment in the mode of levying Customs Duties in the North-Western Provinces. Since then it had been found that that was not the only point in which the law required some amendment in details, and it had been considered that it would be desirable to take this opportunity of completing all these small amendments and consolidating the law, which was now scattered in several Acts, into one comprehensive enactment. Hence it was that the Bill which he had already obtained leave to introduce had not been proceeded with, and that it had been merged into this larger Bill which he now asked leave to introduce. The Bill in question contained a good many details on which, if the Council permitted its introduction, we should obtain the advice, step by step, of the responsible Department of Revenue, Agriculture and Commerce; and all

these points could be, of course, most carefully considered when the Bill would be referred to a Select Committee.

With these observations he asked leave to introduce the Bill as it was set forth in the paper to-day.

The Motion was put and agreed to.

CRIMINAL PROCEDURE BILL.

The Hon'ble MR. STEPHEN moved that His Honour the Lieutenant Governor of Bengal be added to the Select Committee on the Bill for regulating the procedure of the Courts of Criminal Judicature not established by Royal Charter. He said that His Honour had expressed a wish to be added to the Select Committee on this Bill, and there could be no doubt that his presence and assistance in Committee would be of great importance.

The Motion was put and agreed to.

NATIVE MARRIAGE BILL.

The Hon'ble MR. STEPHEN presented the report of the Select Committee on the Bill to legalize marriages between certain Natives of India not professing the Christian Religion. He said that he would request the permission of His Excellency the President that the Bill as now amended by the Select Committee be published. This Bill had been re-cast twice since its introduction, with the title mentioned in the List of Business, by his predecessor, Sir Henry Maine. It was introduced in the form of a Bill for legalizing the marriages of the Bráhma-Samája some months ago. A difficulty had been found in connection with the Bill, as last introduced, in consequence of differences of opinion amongst the members of that persuasion. The Bill, as it stood, would, with His Excellency's permission, be published in the Gazette, and MR. STEPHEN hoped, after the expiration of some reasonable time, say a few weeks or a month, that the Bill might be taken into consideration by the Council and then be finally disposed of. He did not wish to say anything more on the subject at present, but he was afraid that he would have to address the Council at very considerable length when the Report of the Committee came on for consideration.

OATHS AND DECLARATIONS BILL.

The Hon'ble MR. STEPHEN also presented the report of the Select Committee on the Bill to amend Act No. V of 1840 (concerning the Oaths and Declarations of Hindoos and Mahometans).

NATIVE PASSENGER SHIPS ACT AMENDMENT BILL.

The Hon'ble MR. CHAPMAN introduced the Bill to amend Act XII of 1870, the Native Passenger Ships Act, and moved that it be referred to a Select Committee with instructions to report in a fortnight. He said, this Bill would remove all uncertainty as to the applicability of the existing law to steam vessels. It was never intended to exempt them from its provisions; and the defect which it was now proposed to remedy was not discovered until the Act came under the scrutiny of the law officers in connection with a memorial to the Government of India from the Agents of certain Steam Companies. The memorialists, under the belief that the Act applied to their vessels, remonstrated against what they considered the unnecessary stringency of some of its provisions, especially those for the regulation of space. They argued, and MR. CHAPMAN thought fairly and reasonably, that it was not right to insist on the same amount of space in the case of a well-found, well-ventilated, speedy steamer, as was necessary in the case of an old tub of a sailing vessel that might take weeks beating up the Red Sea.

In this Bill he had endeavoured to meet their objection by giving the officer appointed to grant the certificate discretionary power to allow of a diminution of space in case of steamers, provided that the space between decks should never be less than nine superficial and fifty-four cubical feet for each passenger. He had thought it best to modify the law in this permissive manner, because, of course, there was great variety in the class of steamers likely to be engaged in this carrying trade; and it was possible that, in some cases, it might be advisable to insist on the full amount of space fixed for sailing vessels, namely, twelve superficial, and twenty-two cubical, feet. He also proposed that the same officer should, in the case of steamers fitted with serviceable condensers, have the power to allow a reduction in the quantity of stored water specified in section 21, provided that the quantity should in no case be less than at the rate of three gallons per passenger for each week of the estimated duration of the voyage.

A copy of the Bill had been forwarded to the Local Governments for their early opinion after consulting those interested in the subject, and MR. CHAPMAN hoped their replies might be received in time to admit of the Bill being passed as speedily as possible.

The pilgrim season had now commenced, and it was consequently advisable that there should be no avoidable delay.

The Motion was put and agreed to.

The following Select Committee was named:—

On the Bill to amend Act XII of 1870, the Native Passenger Ships Act—The Hon'ble Messrs. Stephen, Cockerell, Stewart and Bullen Smith and the Mover.

The Council adjourned to Tuesday, the 2nd January 1872.

CALCUTTA;
The 21*st December* 1871.

H. S. CUNNINGHAM,
Offg. Secy. to the Council of the Govr. Genl. for making Laws and Regulations.

Office Supdt. Govt. Printing.—No. 7468 L. D.—4-1-72.—200.

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OF THE

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ASSEMBLED FOR THE PURPOSE OF MAKING

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